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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

- - - - -X  
UNITED STATES OF AMERICA 18-CR-6094(G)  
  
vs.  
CARLOS JAVIER FIGUEROA, Rochester, New York  
Defendant. May 3, 2021  
8:30 a.m.  
- - - - -X

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE FRANK P. GERACI, JR.  
UNITED STATES DISTRICT CHIEF JUDGE

JAMES P. KENNEDY, JR., ESQ.  
United States Attorney  
BY: ROBERT A. MARANGOLA, ESQ.  
CASSIE M. KOCHER, ESQ.  
Assistant United States Attorneys  
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Rochester, New York 14614  
Appearing on behalf of the United States  
  
PAUL J. VACCA, JR., ESQ.  
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Appearing on behalf of the Defendant

ALSO PRESENT: Nicolas Penchaszadeh, Spanish Interpreter  
Barbara Considine, Spanish Interpreter  
  
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I N D E X

WITNESS FOR THE GOVERNMENT

Joseph Briganti

Direct examination by Mr. Marangola

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P R O C E E D I N G S

\* \* \*

(WHEREUPON, the defendant is present).

**THE COURT:** Good morning.

08:10:56AM **MR. MARANGOLA:** Good morning.

**MS. KOCHER:** Good morning.

**MR. VACCA:** Good morning.

(WHEREUPON, Barbara Considine was sworn as an interpreter).

08:55:32AM **THE COURT:** Before we begin there was a motion filed by the Government that was not filed under seal, right?

**MR. MARANGOLA:** It was not filed under seal, no.

**THE COURT:** A motion *in limine* to preclude the defense from cross-examining Government witnesses regarding issues with anxiety and/or depression. Did you get to see this yet, Mr. Vacca?

**MR. VACCA:** I did, Your Honor. I've reviewed it. I had an opportunity to review it with my client as well.

**THE COURT:** Okay. What's your position?

08:56:04AM **MR. VACCA:** My position, Your Honor, is I would strenuously object to it. In any criminal case a defendant has an absolute right to confront witnesses against him. This is open-ended. They don't give any specific dates. Even if they did give names, to preclude the defense from cross-examining witnesses flies in the face of our entire

08:56:15AM

08:56:33AM

1 judicial system. So I would object to it, Your Honor, and I  
2 would even object to it on a case-by-case or  
3 witness-by-witness decision by the Court.

4 **THE COURT:** Okay. I know the Government has cited  
08:56:49AM 5 two different cases, one in the Southern District in which  
6 they apparently did allow some preclusion; and one in the  
7 Eastern, which they did not.

8 I'm going to deny the motion at this time. I think  
9 it's way too general without any indication of any particular  
08:57:06AM 10 individuals. I do believe the Government could submit  
11 information *in camera* to the Court to examine on an individual  
12 basis if there's a particular situation with a witness that  
13 they feel could be precluded and I can determine whether or  
14 not it should be disclosed to the defense and then hear  
08:57:25AM 15 further argument.

16 So at this time it's denied.

17 **MR. MARANGOLA:** Judge, may I provide some additional  
18 information to the Court with respect to one of the witnesses  
19 because one of them may be this afternoon or I guess later  
08:57:36AM 20 this morning.

21 It's Kristin Trever. Ms. Trever collected casings.  
22 She's a civilian technician from the Rochester Police  
23 Department, she collected casings at two crime scenes that  
24 will be heard about during this case. One is the Walter Ross  
08:57:53AM 25 murder scene in 2016; and she also collected evidence at the

1 shooting at the defendant's house at the takedown in January  
2 of 2018.

3 Ms. Trever after the events of this case, both the  
4 2016 and 2018, was working as a technician collecting casings  
08:58:16AM 5 at a particular scene one day and an individual came by and  
6 shots rang out; they fired shots in the area where she was.  
7 As a result of that, she has suffered from anxiety and  
8 post-traumatic stress syndrome.

9 Those issues with her developed after her work in  
08:58:38AM 10 this case. She was not taking medication at the time of her  
11 work in this case. And I think the case law supports the idea  
12 that having anxiety and depression do not go to a witness's  
13 ability to recall events and are not proper subject for  
14 impeachment as to their credibility, especially in the event  
08:59:03AM 15 they did not have those conditions at the time of the events  
16 to which they're testifying, or taking medication that would  
17 effect their ability to recall those events.

18 **THE COURT:** That's exactly -- one of the cases said  
19 the opposite, didn't it? The Eastern District?

08:59:18AM 20 **MR. MARANGOLA:** I think that case was -- involved a  
21 witness who was taking medication while the events about which  
22 they were testifying occurred.

23 This is not that case. As I mentioned, Ms. Trever  
24 didn't have these issues until well after her work as a  
08:59:35AM 25 technician at the Walter Ross scene and at the shooting of

1 Obed Torres.

2 And we have another witness who after his arrest in  
3 this case has developed anxiety and depression and based on  
4 that, Your Honor, again it wasn't -- they weren't conditions  
08:59:55AM 5 the witness suffered or took medication from during the events  
6 about which they're going to testify, but something that  
7 occurred after those events. And there's no indication that  
8 having anxiety or depression makes a witness's ability to  
9 recall incidents at a time when they didn't have anxiety or  
09:00:16AM 10 depression any greater or lesser.

11 So that's the -- essentially the thrust of the  
12 motion. We didn't want to outline those issues in a public  
13 filing as the Court can understand and I appreciate the  
14 opportunity to put down some of that additional information  
09:00:31AM 15 for the Court, but that's essentially what we have with  
16 Ms. Trever and with another cooperating witness, anxiety and  
17 depression that developed after the events about which they'll  
18 be called to testify.

19 **THE COURT:** Both on medications currently?

09:00:46AM 20 **MR. MARANGOLA:** Yes, both currently on medications,  
21 that's correct.

22 **THE COURT:** All right. I think with those details --  
23 obviously I can do some research on the issue. We need to  
24 give Mr. Vacca an opportunity as well to dwell on that now  
09:00:58AM 25 that we have more specific information. I'll make a ruling

1 before the witness testifies if we have time to do that.

2 **MR. VACCA:** First of all, Judge, I don't know who  
3 these witnesses are, potential witnesses.

4 **THE COURT:** He just told you.

09:01:10AM 5 **MR. VACCA:** He said there are other individuals.

6 **THE COURT:** Another individual.

7 **MR. VACCA:** Another individual. But they must have  
8 known this a long time ago and under *Jencks* they should have  
9 furnished that information. Now when we're in our sixth day  
09:01:22AM 10 of trial --

11 **THE COURT:** Okay, all right. I'll give you a  
12 chance to respond obviously. Ready to proceed?

13 **MR. MARANGOLA:** Yes, Judge. The only other thing I  
14 was going to raise is I let Mr. Vacca know, just as a matter  
09:01:33AM 15 of kind of a head's up for the Court, I plan to finish with  
16 Investigator Briganti this morning, probably I would imagine  
17 it would be shortly after our first break, but I did want to  
18 let the Court know it will probably be after that break, but I  
19 did plan to play one call from the wiretap with Investigator  
09:01:54AM 20 Briganti and I wanted to let the Court know it's a call --

21 normally I ask the investigator to identify individuals'  
22 voices, and we will have cooperating witnesses and other folks  
23 that are going to do that.

24 However, he actually would be able to do that with  
09:02:10AM 25 respect to this defendant and others, but one particular call

1 which is at tab -- I can just describe it for the Court first.  
2 If the Court wishes to flip to it, we can certainly have more  
3 discussion, but there is a call -- it's at the end of the  
4 wire -- actually right during the takedown in which ADT, the  
09:02:29AM 5 alarm company, calls the defendant's phone number, the  
6 766-8057, about an alarm and they ask who they're speaking to  
7 or they ask for the name of the person they're speaking to and  
8 the defendant identifies himself by name, he says Carlos  
9 Figueroa.

09:02:48AM 10 So based on that, Judge, I think that's more than  
11 enough to allow the call to be admitted based on the voice  
12 identification of the participant in the call identifying  
13 himself as Carlos Figueroa, but nonetheless, Investigator  
14 Briganti will say that he's reviewed that call and the person  
09:03:09AM 15 who identified himself as Carlos Figueroa Investigator  
16 Briganti heard during wiretaps in this case on hundreds of  
17 occasions and that Investigator Briganti spoke to the  
18 defendant at the time of his arrest and when he did the voice  
19 of the defendant, the voice of the person he spoke to in  
09:03:28AM 20 person is the same voice that he heard identify himself as  
21 Carlos Figueroa in this call and the same that he heard  
22 throughout the hundreds of wiretap calls that he listened to  
23 in the case.

24 **THE COURT:** That's the only substance of the  
09:03:41AM 25 conversation is the name Carlos Figueroa?



1                   **MR. MARANGOLA:** Yes. They just -- it's -- they call  
2 up and ask is everything okay at a particular address and he  
3 says yes, everything is okay. It's tab 1-1-192. I won't be  
4 asking the investigator any, like, interpretation questions or  
09:04:15AM 5 anything like that. I think it's a self-explanatory call and  
6 it is in English.

7                   So I did want to let the Court know that I would be  
8 offering that based on the defendant's identification of his  
9 own voice as the person making that call.

09:04:37AM 10                   **MR. VACCA:** Your Honor, first of all, as far as that  
11 is concerned there's been no establishment that that is the  
12 voice of Carlos.

13                   **THE COURT:** They have to lay a foundation obviously  
14 before they could do that.

09:04:48AM 15                   **MR. VACCA:** Right. And I think this is immaterial.  
16 They're talking about an alarm going off. I think it's  
17 irrelevant, immaterial and incompetent because it has  
18 nothing -- this one has really nothing to do with this case.

19                   There's nothing in there where he incriminates  
09:05:04AM 20 himself or anything, but they're going to use that as  
21 identification that Carlos Figueroa is attached to that phone  
22 number.

23                   **THE COURT:** Makes it relevant, doesn't it? Okay.  
24 So we'll see if the foundation is properly laid. It sounds  
09:05:22AM 25 like it's -- possibly there's another person speaking on that

1 line as well?

2 **MR. MARANGOLA:** Yeah, Judge, there's actually three  
3 folks. There's an ADT person who self-identifies. There's  
4 the defendant who self-identifies. And then there's one line  
09:05:34AM 5 from the defendant's wife Nisharya Gutierrez at the very end  
6 of the call.

7 And Investigator Briganti will also say that he  
8 heard her voice during the course of the wiretap, that he had  
9 spoken to her in person and that the person is listed as NG  
09:05:49AM 10 responding to Nisharya -- or corresponding to Nisharya  
11 Gutierrez, that's the person he spoke to, so recognizes her  
12 voice.

13 **MR. VACCA:** Same objection on that, there's no  
14 foundation right now.

09:06:03AM 15 **THE COURT:** Absolutely. He's just proffering the  
16 foundation at this point. You also have to lay the foundation  
17 through the witness. All right, we can bring the jury out.

18 (WHEREUPON, the jury is present).

19 **THE COURT:** Good morning, members of the jury.  
09:09:30AM 20 We're ready to proceed.

21 **MR. MARANGOLA:** Thank you, Your Honor.

22 **BY MR. MARANGOLA:**

23 Q. Good morning, Investigator Briganti.

24 A. Good morning.

09:09:40AM 25 Q. I'd like to pick up where we left off last week. I think

1 we were at the events that occurred at 292 Barrington Street  
2 on January 29th, 2018.

3 I'd like right now to publish the -- from  
4 Government's Exhibit 22 the pole camera clip. I believe we  
09:10:02AM 5 saw this at some point late in our session Friday and I'd ask  
6 you if we could go ahead and play that? Thank you.

7 Investigator Briganti, can you describe -- pause it  
8 here one second -- just generally what had occurred right  
9 before the Nissan Altima pulled into 292 Barrington Street as  
09:10:26AM 10 shown in this video clip?

11 A. Yes, I observed the Nissan Altima arrive at 15 Harwood  
12 Street. A male came out of 15 Harwood Street and placed a box  
13 in the trunk of the Nissan Altima and I observed Leitscha  
14 Poncedeleon enter back into the driver's seat of the vehicle  
09:10:48AM 15 and the vehicle proceeded -- well, left the location and then  
16 I observed the vehicle drive directly to the area of 292  
17 Barrington Street.

18 When we got out to the street on Barrington Street  
19 I radioed to the other teams to prepare to execute their  
09:11:06AM 20 search warrants and I let them know that once I observed the  
21 vehicle pull into the driveway that I would give the order to  
22 execute search warrants.

23 I observed -- I drove past the driveway and then I  
24 observed the Nissan Altima pull into the -- into the driveway,  
09:11:23AM 25 at which time I gave the order to execute all the search

1 warrants.

2 Q. And when you observed the Nissan pull into the driveway  
3 how did you observe it?

4 A. I observed it through my rearview mirror. Her vehicle was  
09:11:34AM 5 behind my vehicle.

6 Q. All right. And then if we can continue here playing this?  
7 And this is at 11:31; is that correct?

8 A. Yes.

9 Q. You see the members of the entry team approach the door  
09:12:20AM 10 there?

11 A. Yes, sir, I do.

12 Q. Can you tell us about what time they appear to make entry  
13 into that residence?

14 A. It was approximately 11:32.

09:12:51AM 15 Q. All right. That's Leitscha Poncedeleon in the white coat?

16 A. Yes.

17 Q. All right. And that clip ends at approximately 11:33 and  
18 change; is that right?

19 A. Yes.

09:13:10AM 20 Q. Can you tell us after Ms. Poncedeleon was taken into  
21 custody was the residence at 292 Barrington Street searched?

22 A. Yes.

23 Q. And was that vehicle, that Nissan Altima that we just saw  
24 Ms. Poncedeleon being taken into custody at, was that vehicle  
09:13:32AM 25 also searched?

1 A. Yes.

2 Q. And were you present for the searches of 292 Barrington  
3 Street and that Nissan Altima?

4 A. Yes.

09:13:41AM 5 Q. What, if anything, did you see in the trunk of that Nissan  
6 Altima?

7 A. There was a brown package with that Postal label from  
8 Puerto Rico. Inside the package was several boxes of candy,  
9 and inside two of the boxes of candy were wrapped in black  
09:14:05AM 10 carbon paper -- an item that was wrapped in black carbon  
11 paper.

12 Q. All right. As officers searched the Nissan Altima and 292  
13 Barrington Street, other officers were searching other  
14 locations that you had directed them to search; is that right?

09:14:20AM 15 A. Yes.

16 Q. Let's talk about the search at 292 Barrington Street and  
17 the Nissan Altima. If I can show you first Government's --  
18 what's not in evidence as Government's 565. Is that up on  
19 your screen there?

09:14:54AM 20 A. Yes. 565?

21 Q. Yes.

22 A. Yes.

23 Q. Can you tell the jury do you recognize what's shown in  
24 Government's 565?

09:15:00AM 25 A. Yes, it's the front of -- the front of the location at 292

1 Barrington Street.

2 Q. Does Government's Exhibit 565 fairly and accurately show  
3 the front of 292 Barrington Street as it existed at the time  
4 of that search warrant on January 29th, 2018?

09:15:17AM 5 A. Yes.

6 **MR. MARANGOLA:** At this time I'd offer Government's  
7 565.

8 **MR. VACCA:** Objection, Your Honor.

9 **THE COURT:** Basis?

09:15:22AM 10 **MR. VACCA:** Relevancy.

11 **THE COURT:** Overruled. Exhibit 565 will be  
12 received.

13 (**WHEREUPON**, Government's Exhibit 565 was received  
14 into evidence).

09:15:31AM 15 **BY MR. MARANGOLA:**

16 Q. And before we get into the evidence seized inside 292  
17 Barrington Street, I'd like you to look at what's not in  
18 evidence as Government's 634. I'm going to show you a few  
19 photos. 635. 636. And 637.

09:16:06AM 20 Can you describe generally what are contained in  
21 Government's Exhibit 634 through 637?

22 A. Yes. It's the Nissan Altima and then the Postal package  
23 that was in the trunk of the Nissan Altima.

24 Q. Do Government's 634 through 637 show those areas at the  
09:16:29AM 25 time of the search on January 29th, 2018?

1 A. Yes.

2 Q. Are they -- do they fairly and accurately reflect items  
3 that you observed on that day?

4 A. Yes.

09:16:39AM 5 **MR. MARANGOLA:** At this time I'd offer 634 to 637.

6 **MR. VACCA:** No objection, Your Honor.

7 **THE COURT:** Exhibits 634, 635, 636 and 637 will be  
8 received in evidence).

9 (WHEREUPON, Government's Exhibits 634-637 were  
09:17:01AM 10 received in evidence).

11 **BY MR. MARANGOLA:**

12 Q. Investigator, can you tell us what's shown in 634?

13 A. Yes, it's a photo of the rear of the Nissan Altima.

14 Q. Is that the same vehicle that you observed Leitscha  
09:17:12AM 15 Poncedeleon at from 15 Harwood Street all the way to 292  
16 Barrington Street?

17 A. Yes.

18 Q. If we could go to 635? Can you describe what's in 635?

19 A. Yes, it's a photo of the contents of the trunk including  
09:17:30AM 20 the Postal package in the trunk.

21 Q. All right. And can you show us 636? Can you tell us  
22 what's in Government's 636?

23 A. Yes, it's a photograph of the tracking label on the  
24 package that was in the trunk of the Nissan Altima.

09:17:51AM 25 Q. And what is the expected delivery day of that package?

1 A. 1/27/2018.

2 Q. And if you could, can you tell us the last six digits of  
3 the tracking number below the bar code there?

4 A. Yes. 1504 05.

09:18:16AM 5 Q. Now, take a look at Government's 795. Tell us, do you see  
6 the last six digits of the tracking code that you just  
7 mentioned anywhere on Government's 795?

8 A. Yes.

9 Q. Can you touch the screen where you see those?

09:18:31AM 10 A. Yes. The second one from the bottom, putting a line next  
11 to it, it's in red.

12 Q. That reflects the same tracking number that was on that  
13 package; is that right?

14 A. Yes.

09:18:43AM 15 Q. And the delivery date states January 29th, 2018?

16 A. Yes.

17 Q. And what's the delivery address?

18 A. 15 Harwood Street.

19 Q. All right. If we can go back to 637? Can you tell us  
09:18:58AM 20 what's shown in Government's 637?

21 A. It's a photograph of the mailing label on the box that was  
22 in the trunk of the Nissan Altima.

23 Q. Can you make out the name and the address on that label?

24 A. I can make out a portion of the name and the address, yes.

09:19:20AM 25 Q. Can you tell us what you can make out?



1 A. Anthony Williams, 15 Harwood, apartment -- and then I  
2 can't make out the rest of that. Rochester, New York. 14620.

3 Q. All right. And now if I can show you what's not in  
4 evidence as Government's -- we'll start at Government's 638.

09:19:48AM 5 Show you Government's 639. And Government's 640. Do you  
6 recognize what's shown in those three photographs?

7 A. Yes.

8 Q. Can you describe generally what's shown in those three  
9 photographs?

09:20:04AM 10 A. Yes. It's the contents of the Postal box which were  
11 individual boxes of candy, and in two of the boxes of candy  
12 were items wrapped in carbon paper that were later identified  
13 as kilos of cocaine.

14 **MR. VACCA:** Objection, Your Honor.

09:20:28AM 15 **THE COURT:** Yes, sustained, the last part of the  
16 answer will be stricken.

17 **BY MR. MARANGOLA:**

18 Q. Investigator Briganti, do Government's 638 through 640  
19 fairly and accurately show the contents of the Postal box at  
09:20:41AM 20 the time you observed it being opened on January 29th, 2018?

21 A. Yes.

22 **MR. MARANGOLA:** At this time I'd offer Government's  
23 638 to 640.

24 **MR. VACCA:** Objection on grounds of relevancy, Your  
09:20:53AM 25 Honor.

1                   **THE COURT:** Overruled. Exhibit 638, 639, 640 will  
2 be received.

3                   (**WHEREUPON**, Government's Exhibits 638-640 were  
4 received into evidence).

09:21:03AM 5 **BY MR. MARANGOLA:**

6 Q. If we could publish 638? Is that a photograph of the box  
7 when it was first opened?

8 A. Yes.

9 Q. Let's go to 639. Can you identify what's shown in  
09:21:22AM 10 Government's 639?

11 A. Yes. It's a box of peanut M&Ms and an item wrapped in  
12 carbon paper inside that box.

13 Q. All right. And can you show -- can we go to 640? Can you  
14 tell us what's shown in Government's 640?

09:21:43AM 15 A. Yes, it's a box containing Skittles candies and inside  
16 that box is an item wrapped in carbon paper.

17 Q. All right. And did you see the items in carbon paper  
18 after they were unwrapped or no?

19 A. Yes.

09:22:01AM 20 Q. Can you describe what you saw when the items from those  
21 two candy boxes that were wrapped in carbon paper were  
22 unwrapped?

23 A. Yes, they were 2 kilograms of cocaine.

24 **MR. VACCA:** Objection, Your Honor.

09:22:16AM 25 **THE COURT:** Sustained.

1 **BY MR. MARANGOLA:**

2 Q. Investigator, can you tell the jury was there anyone  
3 inside 292 Barrington Street at the time the officers entered  
4 to search it?

09:22:29AM 5 A. Yes.

6 Q. Who?

7 A. Roberto Figueroa and his child.

8 Q. What happened after officers entered the residence at 292  
9 Barrington Street?

09:22:41AM 10 A. After Mr. Figueroa was secured inside photographs were  
11 taken of the location along with the Nissan Altima and then a  
12 search was conducted for evidence inside.

13 Q. Did you yourself enter and observe evidence found during  
14 the search at 292 Barrington Street?

09:22:58AM 15 A. Yes, sir, I did.

16 Q. Did you physically participate in the search as well?

17 A. No.

18 Q. All right. But you're familiar based on your observations  
19 of what was found inside 292 Barrington Street during the  
09:23:09AM 20 search?

21 A. Yes, I was there when items of evidence were located.

22 Q. All right. If you could describe some of the items that  
23 members of the team found during the search at 292 Barrington  
24 Street?

09:23:21AM 25 A. So there was a box that contained approximately \$230,000

1 in cash, it was divided up into bundles and those bundles were  
2 vacuum sealed.

3 There were also eight firearms located inside;  
4 there were six long guns and two handguns.

09:23:44AM 5 There was a Home Depot bucket that contained  
6 approximately 720 grams of cocaine.

7 **MR. VACCA:** Objection, Your Honor.

8 **THE COURT:** Sustained to the last part of the  
9 answer.

09:23:57AM 10 **THE WITNESS:** The items in the bucket were divided  
11 into -- there was a 500 gram piece and then there were three  
12 62 gram pieces and then one --

13 **MR. VACCA:** Objection, Your Honor.

14 **THE COURT:** Sustained.

09:24:16AM 15 **BY MR. MARANGOLA:**

16 Q. Can you describe the items that you're describing? What  
17 did they look like to you?

18 A. What they appeared to be?

19 Q. No, no. What they physically looked like.

09:24:27AM 20 A. Oh, yes. The larger item was in a block shape. The three  
21 items were like a ball shape. And the last item was in -- was  
22 packaged in a small bundle shape.

23 Q. What color were the items that you're describing in these  
24 shapes and bags?

09:24:54AM 25 A. White powder.

1                   **MR. VACCA:** Objection, Your Honor, to the  
2 characterization of powdery.

3                   **THE COURT:** Overruled.

4 **BY MR. MARANGOLA:**

09:25:00AM 5 Q. Investigator, have you seen in your over -- I think it was  
6 24 years as a police officer?

7 A. 27 years.

8 Q. 27 years as a police officer have you observed cocaine  
9 during your experience as a narcotics investigator?

09:25:13AM 10 A. Yes, thousands of times.

11 Q. How many times?

12 A. Thousands of times.

13 Q. Are you familiar with its appearance?

14 A. Yes.

09:25:20AM 15 Q. Are you familiar with its texture?

16 A. Yes.

17 Q. Are you familiar with its color?

18 A. Yes.

19 Q. Have you been trained in conducting field tests of items  
09:25:29AM 20 that are suspected to be cocaine?

21 A. Yes.

22 Q. Are you -- have you field tested yourself items suspected  
23 to be cocaine?

24 A. Yes.

09:25:37AM 25 Q. And are you trained in how to conduct those field tests?

1 A. Yes.

2 Q. Can you compare the items that you observed in the  
3 Home Depot bucket to items you have previously identified as  
4 cocaine in your thousands of times observing cocaine as a  
09:25:54AM 5 narcotics investigator?

6 A. Yes. It appeared to be the same.

7 Q. All right.

8 **MR. VACCA:** Objection, Your Honor.

9 **THE COURT:** Overruled.

09:26:03AM 10 **BY MR. MARANGOLA:**

11 Q. Similarly, with the items that were wrapped in carbon  
12 paper that we showed you in Government's 639 and shown here in  
13 Government's 640, can you compare the items you previously  
14 observed as cocaine in your career to the items that were  
09:26:16AM 15 removed from the carbon paper as shown in Government's 639 and  
16 640?

17 **MR. VACCA:** Objection, Your Honor.

18 **THE COURT:** Overruled. He can answer the question.

19 **MR. VACCA:** He's making a comparison of two items.

09:26:28AM 20 **THE COURT:** He's talking about white powder. He  
21 cannot testify it's cocaine or not, but he's indicating it's  
22 white powder consistent with what he's seen before.  
23 Overruled.

24 **THE WITNESS:** Yes, it appeared to be the same.

09:26:39AM 25 **BY MR. MARANGOLA:**

1 Q. All right. In addition to the bags of white powder in the  
2 Home Depot bucket, what other evidence did you observe  
3 yourself at 292 Barrington Street?

4 A. There was a large amount of ammunition located inside.

09:26:58AM 5 **MR. VACCA:** Objection, Your Honor.

6 **THE COURT:** Overruled.

7 **THE WITNESS:** There were also beakers, scales,  
8 packaging materials, walkie-talkies, there were also cell  
9 phones, there's also documentary materials -- it was like  
09:27:22AM 10 notebooks, organizers and folders with paperwork inside, there  
11 were numerous boxes of candy, and there were also the Postal  
12 boxes in the basement and in the garage.

13 **BY MR. MARANGOLA:**

14 Q. All right. If I can show you what is not in evidence as  
09:27:47AM 15 Government's 610. You see Government's Exhibit 610?

16 A. Yes, I do.

17 Q. Do you recognize what's shown in Government's 610?

18 A. Yes.

19 Q. What is that?

09:28:07AM 20 A. It's a box containing U.S. currency.

21 Q. Did you observe that box at the time of the execution of  
22 the search at 292 Barrington Street on January 29th, 2018?

23 A. Yes, I was there when it was located.

24 Q. Does Government's 610 fairly and accurately show that box  
09:28:27AM 25 and the cash as it existed at the time of the search on

1 January 29th, 2018?

2 A. Well, the box was closed. The investigators opened the  
3 box and the bubble wrap was removed from the top prior to the  
4 photograph being taken, but the box was closed when it was  
09:28:46AM 5 initially observed.

6 Q. Okay. So Government's 610 shows the box after it was  
7 opened by investigators?

8 A. Yes. Shows the box and the contents inside the box but  
9 that was not the way it was found originally.

09:28:57AM 10 Q. Right. Does Government's 610 fairly and accurately show  
11 the contents of the box after it was opened by investigators?

12 A. Yes, it does.

13 **MR. MARANGOLA:** At this time I offer Government's  
14 610.

09:29:08AM 15 **MR. VACCA:** No objection, Your Honor.

16 **THE COURT:** Exhibit 610 will be received.

17 (**WHEREUPON**, Government's Exhibit 610 was received  
18 in evidence).

19 **BY MR. MARANGOLA:**

09:29:19AM 20 Q. Investigator, can you point to the -- you previously  
21 testified there were vacuum sealed packages of money?

22 A. Yes.

23 Q. Ms. Rand can publish that for us? Thank you.

24 Can you identify the vacuum sealed packages of  
09:29:36AM 25 money shown in Government's 610?



1 A. Yes. Would you like me to circle it?

2 Q. Please.

3 A. And there's a piece of paper on top of the vacuum sealed  
4 cash; is that correct?

09:29:56AM 5 A. Yes.

6 Q. Are you able to tell us what's written on that piece of  
7 paper?

8 A. Yes.

9 Q. What is it?

09:30:06AM 10 A. 230. And then there's 1-24-18 underneath that.

11 Q. All right.

12 A. Then there appears to be another little piece of paper  
13 that says 35 on it underneath that.

14 Q. All right. If we can now show you what is not yet in  
09:30:26AM 15 evidence as Government's 592. I'd ask you to take a look at  
16 592. 593. And 594. Do you recognize what's shown in  
17 Government's 592 through 594?

18 A. Yes.

19 Q. Can you describe what's shown in each of those photos?

09:30:57AM 20 A. Yes. The block of white powdery substance.

21 **MR. VACCA:** Objection, Your Honor.

22 **THE COURT:** Overruled.

23 **THE WITNESS:** The three balls of white powdery  
24 substance, and then the smaller ball of white powdery

09:31:19AM 25 substance contained in ziplock bags and then in the Tupperware

1 container.

2 **BY MR. MARANGOLA:**

3 Q. And those items were located where?

4 A. In the basement -- in the Home Depot bucket in the  
09:31:35AM 5 basement.

6 Q. Do Government's 592 through 594 fairly and accurately show  
7 those items when they were discovered during the search at 292  
8 Barrington Street on January 29th, 2018?

9 A. Yes.

09:31:49AM 10 **MR. MARANGOLA:** At this time I'd offer Government's  
11 592 through 594.

12 **MR. VACCA:** Objection, Your Honor.

13 **THE COURT:** Overruled. Exhibits 592, 593 and 594  
14 will be received.

09:32:00AM 15 (**WHEREUPON**, Government's Exhibits 592-594 were  
16 received in evidence).

17 **BY MR. MARANGOLA:**

18 Q. You see 592, Investigator?

19 A. Yes.

09:32:15AM 20 Q. All right. Let's go to 593. Can you tell us what's in  
21 593?

22 A. Yes. It's the contents of the Home Depot bucket.

23 Q. And is that before they had been moved or disturbed by  
24 investigators?

09:32:31AM 25 A. Yes.

1 Q. And 594. Can you tell us what's in that photograph?

2 A. Yes, again, it's the contents of the Home Depot bucket but  
3 just a view of all of the items.

4 Q. All right. And you mentioned -- you said there was some  
09:32:54AM 5 smaller bags of white powder; is that right?

6 A. Yes.

7 Q. Then there was a larger bag?

8 A. Yes. There were four smaller bags and one larger bag.

9 Q. Can you describe the shape of the larger bag?

09:33:06AM 10 A. It was a square -- yeah, it was a square, cube.

11 Q. Do you see that shown in Government's 594?

12 A. Yes.

13 Q. Can you circle that one? For the record you've made a  
14 circle inside the orange bucket shown in Government's 594?

09:33:27AM 15 A. Yes.

16 Q. And some of the smaller bags of the white powder can you  
17 circle those? All right. I'd like to show you now what is not  
18 in evidence as Government's 605. Do you recognize what's  
19 shown in Government's 605?

09:33:59AM 20 A. Yes.

21 Q. And do you also -- I'd like to show you Government's 612.  
22 Do you recognize generally the items in Government's 605 and  
23 612?

24 A. Yes.

09:34:15AM 25 Q. Can you describe the items in 605 and 612?

1 A. Yes. In the bin were several unused ziplock style baggies  
2 and packaging materials. And then in the suitcase there was a  
3 coffee grinder and some other packaging items in there.

4 Q. All right. With respect to Government's 605, let's  
09:34:49AM 5 talk -- let me show you that one first. Does Government's 605  
6 fairly and accurately show items of evidence you observed  
7 inside 292 Barrington Street during the search?

8 A. Yes.

9 **MR. MARANGOLA:** At this time I'd offer Government's  
09:35:05AM 10 605.

11 **MR. VACCA:** Objection, Your Honor.

12 **THE COURT:** Overruled. Exhibit 605 will be  
13 received.

14 (**WHEREUPON**, Government's Exhibit 605 was received  
09:35:18AM 15 into evidence).

16 **BY MR. MARANGOLA:**

17 Q. Can you circle some of the bags that you mentioned inside  
18 the black tote there marked -- in the photo marked  
19 Government's 605?

09:35:30AM 20 A. Yes.

21 Q. Did you have occasion to look inside the white plastic bag  
22 and the black plastic bag shown in the right side of that  
23 black tote in Government's 605?

24 A. I did, yes.

09:35:51AM 25 Q. Can you describe generally what you observed inside those

1 two plastic bags?

2 A. I can't recall what was in either one of those.

3 Q. All right. If I can then show you Government's 612 that's  
4 not in evidence. If you can clear your screen there? Thank

09:36:13AM 5 you. And describe what's shown in this photograph.

6 A. Again that's a coffee grinder and some other items of  
7 packaging material underneath it.

8 Q. They're contained in a suitcase; is that right?

9 A. Yes.

09:36:30AM 10 Q. Does Government's 612 fairly and accurately show those  
11 items after the suitcase was opened on January 29th, 2018, at  
12 292 Barrington Street?

13 A. Yes.

14 **MR. MARANGOLA:** At this time I'd offer Government's  
09:36:43AM 15 612.

16 **MR. VACCA:** Your Honor, relevancy as to my client.

17 **THE COURT:** Overruled. Exhibit 612 will be  
18 received.

19 (**WHEREUPON**, Government's Exhibit 612 was received  
09:36:52AM 20 into evidence).

21 **BY MR. MARANGOLA:**

22 Q. Investigator, could you circle the grinder that you  
23 mentioned? By the way, you characterized that as a coffee  
24 grinder. Do you recall that?

09:37:12AM 25 A. Yes.

1 Q. Did you observe any coffee in that grinder?

2 A. No, sir, I did not.

3 Q. All right. And can you tell the jury what's in the white  
4 plastic bag at the other end of the suitcase?

09:37:28AM 5 A. Yes. They're like little capsules.

6 Q. And can you give the jury an idea of approximately how  
7 many capsules are in that plastic bag in that suitcase?

8 A. There's thousands.

9 Q. Are those plastic bags -- sorry, plastic capsules, are  
09:37:47AM 10 they filled with anything or were they empty?

11 A. They were empty.

12 Q. If I can show you now Government's -- what's not in  
13 evidence as Government's 601. And 602. Can you describe  
14 generally what's shown in Government's 601 and 602?

09:38:14AM 15 A. Yes, they're United States Postal boxes.

16 Q. And were those Postal boxes found inside 292 Barrington  
17 Street during the search warrant?

18 A. Yes.

19 Q. Do photograph 601 and 602 fairly and accurately show those  
09:38:30AM 20 items as they existed during the search of 292 Barrington  
21 Street on January 29th?

22 A. Yes.

23 **MR. MARANGOLA:** At this time I'd offer Government's  
24 601 and 602.

09:38:41AM 25 **MR. VACCA:** Relevancy and foundation objections,

1 Your Honor, as to my client.

2 **THE COURT:** Overruled. Exhibit 601 and 602 will be  
3 received.

4 (**WHEREUPON**, Government's Exhibit 601-602 were  
09:38:52AM 5 received into evidence).

6 **BY MR. MARANGOLA:**

7 Q. Investigator, can you tell us how many boxes you see in  
8 that photograph?

9 A. Three.

09:39:07AM 10 Q. All right. And you see the red priority mail stickers  
11 going across the top of the top one?

12 A. Yes.

13 Q. Do you also see those on the bottom box as well?

14 A. Yes.

09:39:18AM 15 Q. All right.

16 **THE COURT:** That's Exhibit 601.

17 **MR. MARANGOLA:** Yes. Thank you, Judge.

18 **BY MR. MARANGOLA:**

19 Q. If we could go to 602? Is that another photograph of  
09:39:26AM 20 those boxes?

21 A. Yes.

22 Q. All right. Finally you mentioned documentary evidence,  
23 notebooks and organizers. Do you recall that?

24 A. Yes.

09:39:39AM 25 Q. At this time I'd like to show you what's not in evidence

1 as Government's 606. Do you recognize what's shown in photo  
2 marked Government's 606?

3 A. Yes.

4 Q. Can you describe it for us?

09:40:00AM 5 A. Yes. They're organizers and notebooks and folders that  
6 were located with items inside of them.

7 Q. Inside of 292 Barrington Street?

8 A. They were located inside of 292 Barrington Street and  
9 there's also paperwork located in each of these items.

09:40:22AM 10 Q. All right. Were these items collected as evidence?

11 A. Yes.

12 Q. Do Government's Exhibit 606 -- does Government's 606  
13 fairly and accurately reflect those items as they existed at  
14 the time of the search warrant on January 29th, 2018 at 292  
09:40:41AM 15 Barrington Street?

16 A. Yes.

17 **MR. MARANGOLA:** Offer Government's 606.

18 **MR. VACCA:** Relevancy and foundation objections as  
19 far as my client is concerned, Your Honor.

09:40:49AM 20 **THE COURT:** Thank you. Overruled. Exhibit 606 will  
21 be received.

22 (WHEREUPON, Government's Exhibit 606 was received  
23 in evidence).

24 **BY MR. MARANGOLA:**

09:41:10AM 25 Q. Finally, Investigator, you mentioned a number of firearms



1 being collected at 292 Barrington Street during the search  
2 warrant?

3 A. Yes.

4 Q. Did you observe some of those firearms while you were  
09:41:19AM 5 present at 292 Barrington Street?

6 A. Yes, I did.

7 Q. I'd like to show you Government's 614, which is not in  
8 evidence. Can you tell us do you recognize what's shown in  
9 that photograph?

09:41:39AM 10 A. Yes. It's a bag -- zip up bag that contains six long  
11 guns.

12 Q. Did you observe that bag and those firearms during the  
13 execution of the search warrant at 292 Barrington Street on  
14 January 29th, 2018?

09:41:59AM 15 A. Yes, I did.

16 Q. Are those all of the firearms that you observed during the  
17 search of 292 Barrington Street?

18 A. Yes, they are.

19 Q. That's all of the firearms that were observed at 292  
09:42:15AM 20 Barrington Street?

21 A. Those are not all of the firearms that were located, but  
22 they're all the firearms I observed.

23 Q. Okay. So there were other firearms located, but you didn't  
24 observe the other firearms?

09:42:25AM 25 **MR. VACCA:** Objection, leading.

1                   **THE COURT:** Overruled.

2                   **THE WITNESS:** That's correct, sir.

3 **BY MR. MARANGOLA:**

4 Q.    Okay.    But the firearms shown in Government's 614 you did  
09:42:34AM 5 observe at 292 Barrington Street?

6                   **MR. VACCA:** Objection, leading.

7                   **THE COURT:** Overruled.    The answer will stand.

8                   **THE WITNESS:** Yes.

9 **BY MR. MARANGOLA:**

09:42:41AM 10 Q.    Does Government's 614 fairly and accurately show those  
11 firearms at the time they were discovered during the search at  
12 292 Barrington Street on January 29th, 2018?

13 A.    Yes.

14                   **MR. MARANGOLA:** At this time I'd offer Government's  
09:42:56AM 15 614.

16                   **MR. VACCA:** Objection, Your Honor, relevancy and  
17 foundation as to my client.

18                   **THE COURT:** Overruled.    Exhibit 614 will be  
19 received.

09:43:06AM 20                   (**WHEREUPON**, Government's Exhibit 614 was received  
21 into evidence).

22 **BY MR. MARANGOLA:**

23 Q.    If we could go back for a minute.    Investigator, these  
24 firearms, can you tell us -- did you say how many were in that  
09:43:23AM 25 bag?

1 A. Yes, there were six.

2 Q. All right. Now, you mentioned earlier that -- I think it  
3 was on Friday's testimony at the end, that you searched the  
4 wallet case for Leitscha Poncedeleon's smart phone in the days  
09:43:45AM 5 after the execution of the search warrant?

6 A. Yes.

7 Q. And why was it that you searched that wallet case in the  
8 days after the search warrant as opposed to that very same  
9 day?

09:43:57AM 10 A. Because we hadn't gotten around to it yet. There was so  
11 much evidence that we were going through, it wasn't until a  
12 couple days after that we were able to actually get to that  
13 and search that.

14 Q. All right. If we could show you Government's 606? Do you  
09:44:19AM 15 remember examining the contents of any of the items shown in  
16 Government's 606 in the days following the search warrant?

17 A. Yes. I examined the contents of all of these items.

18 Q. And specifically let me ask you, did you examine any of  
19 the contents of that red plastic file organizer?

09:44:38AM 20 A. Yes, I did.

21 Q. Can you describe what, if anything, you observed inside  
22 that red file organizer?

23 A. Yes. There was paperwork inside along with a white and  
24 pink thumb drive. It was a white thumb drive with a pink top  
09:44:57AM 25 on it.

1 Q. What, if anything, did you do with the white and pink  
2 thumb drive that was inside the red file organizer at 292  
3 Barrington Street?

4 A. I placed it in my computer and I viewed the contents.

09:45:08AM 5 Q. And we'll get to the contents in a minute, but can you  
6 describe after you finished viewing the contents of that thumb  
7 drive on your computer what, if anything, did you do with it?

8 A. I placed it in an evidence bag, filled out the evidence  
9 bag and I turned it into the Rochester Police Department's  
09:45:26AM 10 Property Clerk's Office.

11 Q. All right. At the time you turned that thumb drive in the  
12 evidence bag into the Rochester Police Department Property  
13 Clerk's Office, was it in the same condition as when you first  
14 removed it from the file organizer shown in Government's  
09:45:43AM 15 Exhibit 606?

16 A. Yes, it was.

17 Q. Can you describe what you saw on the white and pink thumb  
18 drive when you opened up the contents and viewed them on your  
19 computer?

09:45:54AM 20 A. Yes. There were numerous files on it. One of the files  
21 was labeled -- it was either Culver thumb drive or thumb drive  
22 Culver. In that folder was -- were two files, video files.  
23 The first video file was a video of Axel Aponte Camacho and  
24 another male on a fire escape.

09:46:24AM 25 And the second one was video --

1 Q. I'm sorry, if I could slow you down one second? So you  
2 viewed the two files under the Culver Road label file in the  
3 white and pink thumb drive?

4 A. Yes, sir.

09:46:46AM 5 Q. All right. First -- the first file, was there a date and  
6 time listed on that, do you recall, of the video?

7 A. Yes, there was a date and time, yes.

8 Q. Do you recall the approximate date and time?

9 A. I believe it was December 7th of 2016.

09:47:05AM 10 Q. All right. And you indicated -- what did you observe in  
11 that first folder, I'm sorry, in that first file?

12 A. It was a video of Axel Aponte Camacho and another male  
13 standing on a fire escape.

14 Q. All right. And if we could show you what's in evidence as  
09:47:22AM 15 Government's 26. Do you see Axel Aponte Camacho in

16 Government's Exhibit 26?

17 A. Yes, I do.

18 Q. I believe you previously identified him, but if you could  
19 touch the screen and show us which individual you're referring  
09:47:40AM 20 to?

21 A. Yes, he's in the third line down, he's the second  
22 individual from the left.

23 Q. All right. And you've placed a circle around that  
24 photograph?

09:47:51AM 25 A. Yes.

1 Q. That's the individual who you observed in the video shown  
2 on the thumb drive seized from 292 Barrington Street?

3 A. Yes.

4 Q. All right. How many files were in that Culver Road folder  
09:48:09AM 5 in the white and pink thumb drive?

6 A. Two.

7 Q. Did you observe the second file?

8 A. Yes.

9 Q. Can you describe what you observed when you searched the  
09:48:21AM 10 second file?

11 A. Two males running through the rear parking lot of 899  
12 Culver Road carrying backpacks.

13 Q. So obviously these two files that you watched they were  
14 videos?

09:48:32AM 15 A. Yes, they were videos, yes.

16 Q. Can you tell the jury the date on the second video?

17 A. Yes, it was December 7th of 2016.

18 Q. All right. Do you recall the times on either of those  
19 video clips?

09:48:46AM 20 A. I believe the first time was 5 a.m. And the second one  
21 was 5:25 p.m. -- or a.m., I'm sorry.

22 Q. All right. And in the second video were you able to  
23 identify any of these -- any of the two individuals that you  
24 saw running?

09:49:04AM 25 A. No.

1 Q. But you were able to identify the location?

2 A. Yes.

3 Q. I'd like to show you what's in evidence as Government's

4 95. I'm sorry. What's not in evidence. Thank you. Do you

09:49:32AM 5 recognize what's shown in Government's 95?

6 A. Yes, it's 899 Culver Road.

7 Q. And is that the front or rear of the building at 899

8 Culver Road?

9 A. That's the front.

09:49:44AM 10 Q. I'd like you to take a look at Government's 96 and what's  
11 shown in Government's 96?

12 A. That's the rear of 899 Culver Road.

13 Q. There are two buildings shown in Government's 96; is that  
14 right?

09:50:02AM 15 A. Yes.

16 Q. Which is the building that's the rear of 899 Culver Road?

17 A. The taller one.

18 Q. I'm sorry?

19 A. The taller one.

09:50:10AM 20 Q. Which side of the photograph?

21 A. To the right side where the vehicles are parked behind.

22 Q. All right. Do Government's Exhibits 95 and 96 fairly and  
23 accurately show 899 Culver Road, those areas that you've  
24 identified as they existed during the course of your

09:50:25AM 25 investigation?

1 A. Yes.

2 **MR. MARANGOLA:** I'd offer Government's 95 and 96.

3 **MR. VACCA:** Objection, Your Honor, grounds of  
4 foundation and relevancy as to my client.

09:50:33AM 5 **THE COURT:** Exhibit 95 and 96 will be received.

6 (WHEREUPON, Government's Exhibit 95-96 were  
7 received in evidence).

8 **THE COURT:** Objection is overruled.

9 **BY MR. MARANGOLA:**

09:50:44AM 10 Q. Investigator, have you personally been to 899 Culver Road?

11 A. Yes.

12 Q. And observed the front and rear of the building?

13 A. Yes.

14 Q. All right. And on multiple occasions during the course of  
09:50:55AM 15 this investigation?

16 A. Yes.

17 Q. All right. The -- is the area that you observed on those  
18 two video clips from the thumb drive at 292 Barrington Street,  
19 is the area shown from either of those two videos on  
09:51:15AM 20 Government's 95?

21 A. The first one I don't know where it is on the building,  
22 but the second one is the rear parking lot of 899.

23 Q. Is that shown in Government's 95?

24 A. No.

09:51:29AM 25 Q. All right. If we could go to 96? Is the area on either



1 of the two videos you observed from the thumb drive at 292  
2 Barrington Street shown in Government's 96?

3 A. Yes.

4 Q. Which area?

09:51:45AM 5 A. The rear parking lot.

6 Q. All right. If you can, just so we're clear, can you  
7 circle 899 Culver Road on the screen in Government's 96? And  
8 you circled the large red brick building to the right -- or  
9 center and right of that photograph; is that correct?

09:52:04AM 10 A. Yes.

11 Q. Investigator, in the course of your investigation you  
12 indicated you went to 899 Culver Road; is that right?

13 A. Yes.

14 Q. At this time I'd like to show you what is not in evidence  
09:52:23AM 15 as Government's Exhibit 43. Do you recognize this individual?

16 A. Yes.

17 Q. Who is that?

18 A. His name is Bishmillah Holloway.

19 Q. And does Government --

09:52:42AM 20 **THE COURT:** Can you spell that for us?

21 **THE WITNESS:** You want Holloway?

22 **THE COURT:** How about B-I-S-H-M-I-L-L-A-H, sound  
23 right?

24 **THE WITNESS:** Sounds correct, Your Honor.

09:53:00AM 25 **THE COURT:** Holloway, H-O-L-L-O-W-A-Y?

1                   **THE WITNESS:** Yes, sir.

2                   **THE COURT:** Thank you.

3                   **BY MR. MARANGOLA:**

4                   Q.    Who is the individual that you identified as -- what was  
09:53:09AM 5    the first name again?

6                   A.    Bishmillah.

7                   Q.    Bishmillah Holloway?

8                   A.    That's shown in Government's Exhibit 43?

9                   A.    Yes.

09:53:18AM 10          Q.    Who is that individual?

11                  A.    He's the building manager at 899 Culver Road.

12                  Q.    All right. And did you speak to him in the course of your  
13                  investigation?

14                  A.    Yes.

09:53:29AM 15          Q.    Is he the manager of any other apartment buildings that  
16                  you investigated as part of this case?

17                  A.    Yes.

18                  Q.    And what buildings?

19                  A.    699 East Main Street.

09:53:40AM 20          Q.    All right. Does Government's Exhibit 43 here show --  
21                  fairly and accurately show the person Mr. Holloway that you  
22                  identified a few minutes ago?

23                  A.    Yes.

24                               **MR. MARANGOLA:** At this time I'd offer Government's  
09:53:53AM 25          43.

1                   **MR. VACCA:** Objection, Your Honor, as to foundation  
2 and relevancy as to my client.

3                   **THE COURT:** Overruled. Exhibit 43 will be received.

4                   (**WHEREUPON**, Government's Exhibit 43 was received in  
09:54:03AM 5 evidence).

6 **BY MR. MARANGOLA:**

7 Q. So we're clear, did you, in fact, speak to Mr. Holloway in  
8 the course of your investigation?

9 A. Yes, sir.

09:54:18AM 10 Q. Did you observe him in person as well?

11 A. Yes.

12 Q. All right. You indicated he was the manager of the  
13 building at 899 Culver Road, correct?

14 A. Yes.

09:54:27AM 15 Q. And 699 East Main Street?

16 A. Yes.

17 Q. At this time I'd like to show you what's not in evidence  
18 as Government's 94. Do you recognize what's shown in  
19 Government's Exhibit 94?

09:54:44AM 20 A. Yes.

21 Q. What's that?

22 A. It's 699 East Main Street.

23 Q. Which building in the photograph is 699 East Main Street?

24 A. It's the brown building with the brown front doors.

09:55:04AM 25 Q. All right. You've circled the large building in the

1 center of that photograph; is that right?

2 A. Yes.

3 Q. Does Government's Exhibit 94 fairly and accurately show  
4 Government's -- I'm sorry, show the building at 699 East Main  
09:55:18AM 5 Street as it existed during the course of your investigation?

6 A. Yes, it does.

7 Q. Have you yourself personally been to 699 East Main Street  
8 during the course of your investigation?

9 A. Yes.

09:55:28AM 10 Q. And you have observed it on those occasions?

11 A. Yes.

12 **MR. MARANGOLA:** All right. I'd offer Government's  
13 94.

14 **MR. VACCA:** Objection, Your Honor, grounds of  
09:55:36AM 15 foundation and relevancy as to my client.

16 **THE COURT:** Exhibit 94 will be received objection is  
17 overruled.

18 (**WHEREUPON**, Government's Exhibit 94 was received in  
19 evidence).

09:55:45AM 20 **MR. MARANGOLA:** At this time if I could approach the  
21 witness with an exhibit at this time, Your Honor?

22 **THE COURT:** Yes.

23 **BY MR. MARANGOLA:**

24 Q. Investigator, I've handed you a evidence bag and I'd ask  
09:56:11AM 25 you to take a look inside that evidence bag and tell us if you

1 recognize the contents of it?

2 A. Yes, I do.

3 Q. And what is it?

4 A. It's the white thumb drive with the pink top that I

09:56:27AM 5 previously mentioned I found in the organizer at 292

6 Barrington Street.

7 Q. All right. And is the thumb drive that's contained in

8 that bag, does that appear to be in the same condition as when

9 you found it in the red binder shown in Government's

09:56:48AM 10 Exhibit 606?

11 A. Yes.

12 Q. Anything appear different about the condition of that

13 white and pink thumb drive today as it existed when you

14 recovered it from the red organizer as shown in Government's

09:57:05AM 15 606?

16 A. No, not the thumb drive, no.

17 Q. All right. And, in fact, the evidence bag, was that

18 opened in my office in preparation for this trial with you?

19 A. Yes.

09:57:16AM 20 Q. All right. And other than --

21 **MR. MARANGOLA:** -- at this time I'd offer

22 Government's 674 -- I'm sorry, 676. 676 I would offer, Judge,

23 not 674.

24 **MR. VACCA:** I would object to that, Your Honor,

09:57:37AM 25 based on grounds of foundation and relevancy as to my client.

1                   **THE COURT:** Exhibit 676 will be received. The  
2 objection is overruled.

3                   (**WHEREUPON**, Government's Exhibit 676 was received  
4 in evidence).

09:57:50AM 5                   **MR. MARANGOLA:** Judge, in preparation of the trial  
6 we, as with the other hard exhibits and electronic exhibits,  
7 have uploaded those to the trial laptop to play with the  
8 Court's computer system.

9                   At this time I would ask to publish the two files  
09:58:13AM 10 within the thumb drive marked Government's 676.

11 **BY MR. MARANGOLA:**

12 Q. I first ask you, Investigator Briganti, what was the name  
13 of the folder again that you viewed these two files under?

14 A. Again I'm not certain if it was Culver thumb drive or  
09:58:31AM 15 thumb drive Culver. It was one of the two.

16 Q. The word Culver was in there?

17 A. Thumb drive and Culver were both in there. I'm not sure  
18 which one was first.

19 Q. All right. At this time I'd like to play the first folder  
09:58:44AM 20 from that Culver Road thumb drive folder and ask you to take a  
21 look at it, Investigator. If we could pause it?

22                   Investigator, did you just see two individuals  
23 appear in that video?

24 A. Yes.

09:59:29AM 25 Q. The individual that first appeared on the left, did you

1 see that person?

2 A. Yes.

3 Q. Can you tell us were you able to identify that person from  
4 just observing him on that video the person on the left?

09:59:46AM 5 A. Not yet, no.

6 Q. All right. How about the person on the right?

7 A. No.

8 Q. All right. If we can keep playing? Did you see the  
9 person on the right?

10:00:04AM 10 A. I just saw the person on the right, yes.

11 Q. I believe you testified earlier that one of the  
12 individuals you observed in this video was Axel Aponte  
13 Camacho?

14 A. Yes.

10:00:23AM 15 **MR. VACCA:** Objection, Your Honor.

16 **THE COURT:** Overruled.

17 **BY MR. MARANGOLA:**

18 Q. Which of the individuals that you observed in this video  
19 are Axel Aponte Camacho?

10:00:33AM 20 A. He was the individual that was to the right of the screen.

21 Q. Was that the person wearing a hoodie or not wearing a  
22 hoodie?

23 A. Not wearing a hoodie.

24 Q. And, Investigator, the date and time stamp at the top of  
10:00:58AM 25 this video reflects what date and time?

1 A. December 7th, 2016. And the time now is 5:04 a.m..

2 Q. All right. If we can go back to the beginning of this  
3 clip? Can you point out, Investigator, if we can play it and  
4 you can point out to us when you're able to identify the  
10:01:22AM 5 person as -- in the clip as Axel Aponte Camacho?

6 A. Yes. Right now.

7 Q. All right. The person on the right of the photo shown at  
8 approximately 36 seconds in who is looking up at the top of  
9 the door area; is that right?

10:02:07AM 10 A. Yes, he's looking up, yes.

11 Q. All right. If we can keep playing? All right. Thank you.  
12 Investigator, we're going to play that second clip that's on  
13 the thumb -- the Culver Road thumb drive folder. If we can  
14 pause it? Can you tell us first the date and time of this  
10:02:38AM 15 clip?

16 A. Yes, it's December 7th, 2016 at 5:25 a.m. and 57 seconds.

17 Q. All right. And what's shown in this clip right here?

18 A. It's the rear parking lot of 899 Culver Road.

19 Q. All right. If we can play it? Can you tell us what you  
10:03:35AM 20 saw at approximately 40 seconds into the video?

21 A. Yeah, there were two males that were running away from the  
22 camera through the parking lot, both were carrying backpacks.

23 Q. All right. We can pause it there. If we can go back to  
24 Government's Exhibit 26? And the person that we saw in that  
10:04:18AM 25 first video clip on the bottom right portion, can you touch



1 the screen and show us him in Government's Exhibit 26 again?

2 All right, you've again circled the third row, second from the  
3 left?

4 A. Yes.

10:04:35AM 5 Q. Okay. And that's Axel Aponte Camacho?

6 A. Yes.

7 Q. At this time I'd like to show you Government -- what's not  
8 in evidence as Government's 103. Do you recognize what's  
9 shown as -- in this photograph marked Government's

10:04:51AM 10 Exhibit 103?

11 A. Yes.

12 Q. And what's shown in Government's Exhibit 103?

13 A. 150 Van Aucker Street, the apartment complex.

14 Q. And who lived there during the course of this  
15 investigation?

10:05:02AM

16 A. Axel Aponte Camacho.

17 Q. Have you been to the apartment building shown at -- shown  
18 in Government's Exhibit 103 during the course of your  
19 investigation?

10:05:18AM 20 A. Yes.

21 Q. And are you familiar with its appearance based on being at  
22 that location or on that street and observing the building?

23 A. Yes. Can I clarify?

24 Q. Sure.

10:05:36AM 25 A. I haven't been to this location during the course of this

1 investigation. But I've been to this location hundreds of  
2 times over my career.

3 Q. Okay. So you weren't at this location specifically during  
4 the investigation?

10:05:50AM 5 A. Correct.

6 Q. But you've been there on -- did you say hundreds of times?

7 A. This was a car beat that I worked when I was in Patrol  
8 Division, so --

9 Q. Okay. So based on that you're familiar with the building  
10:06:03AM 10 here shown in Government's 103?

11 A. Yes, sir.

12 Q. Does Government's 103 fairly and accurately show it as it  
13 existed during the time you've patrolled that area?

14 A. Yes, in a sense I've had investigations at this location  
10:06:19AM 15 since being at SIS, but not particularly on this  
16 investigation.

17 Q. Okay. So both before and after this investigation you've  
18 been to this building?

19 A. Yes.

10:06:29AM 20 Q. Does Government's Exhibit 103 fairly and accurately show  
21 the building as it existed both before and after the building  
22 after the investigation?

23 A. Yes, it does.

24 **MR. MARANGOLA:** Offer Government's 103.

10:06:40AM 25 **MR. VACCA:** Objection, Your Honor, on grounds of

1 foundation and relevancy as far as my client is concerned.

2 **THE COURT:** Exhibit 103 will be received the  
3 objection is overruled.

4 (WHEREUPON, Government's Exhibit 103 was received  
10:06:54AM 5 into evidence).

6 **BY MR. MARANGOLA:**

7 Q. All right. Investigator, you testified I believe Friday  
8 that one of the search warrants that was executed was at 6  
9 Burbank; is that correct?

10:07:31AM 10 A. Yes.

11 Q. And that's the residence of who?

12 A. Carlos Figueroa.

13 Q. And?

14 A. Nisharya Gutierrez and their children.

10:07:42AM 15 Q. Can you point to Carlos Figueroa on Government's  
16 Exhibit 26?

17 A. Yes, he's the single photograph at the top.

18 Q. All right. And if we could put -- you said 6 Burbank was  
19 the residence of Carlos Figueroa as well as Nisharya  
10:07:59AM 20 Gutierrez?

21 A. Yes.

22 Q. At this time I'd ask to show what's not in evidence as  
23 Government's 48. Do you recognize the person shown in  
24 Government's Exhibit 48?

10:08:21AM 25 A. Yes, that's Nisharya Gutierrez, also known as Nishy.

1 Q. And during the course of your investigation was she an  
2 individual that lived at 6 Burbank with the defendant?

3 A. Yes.

4 Q. Did you observe her at that location during the course of  
10:08:37AM 5 your investigation?

6 A. Yes.

7 Q. How many times -- are you familiar with her appearance  
8 based on your investigation?

9 A. Yes.

10:08:49AM 10 Q. And does Government's Exhibit 48 fairly and accurately  
11 show the individual you know as Nisharya Gutierrez a/k/a Nishy  
12 as she existed during the course of your investigation?

13 A. Yes.

14 **MR. MARANGOLA:** Offer Government's Exhibit 48.

10:09:06AM 15 **MR. VACCA:** Objection, Your Honor, on grounds of  
16 foundation and relevancy as to my client.

17 **THE COURT:** Overruled. Exhibit 48 will be received.

18 (**WHEREUPON**, Government's Exhibit 48 was received  
19 into evidence).

10:09:18AM 20 **BY MR. MARANGOLA:**

21 Q. Investigator Briganti, the defendant and Ms. Gutierrez  
22 they were taken -- they surrendered to the police here at 6  
23 Burbank; is that right?

24 A. Yes.

10:09:44AM 25 Q. And that was at -- on January 29th, 2018?

1 A. Yes.

2 Q. All right. Were you present at that location for the  
3 search of 6 Burbank?

4 A. No, I was not.

10:10:00AM 5 Q. All right. And I think earlier you testified in watching  
6 the pole camera clip starting at 11:31 at 292 Barrington  
7 Street on January 29th, 2018, that officers made entry into  
8 292 Barrington Street at approximately 11:32 or so a.m.?

9 A. Yes.

10:10:23AM 10 Q. On January 29th, 2018?

11 A. Yes.

12 Q. All right. If we could pull back up Government's 565?  
13 Now, after the team entered 292 Barrington Street here they  
14 went to other locations; is that correct? Or not the team

10:10:46AM 15 that went into 292, but other teams went to other locations?

16 A. Other teams went to other locations, yes.

17 Q. And that included 6 Burbank?

18 A. Yes.

19 Q. As well as 60 Malling Drive?

10:11:01AM 20 A. Yes.

21 Q. That's the residence of who?

22 A. 60 Malling Drive?

23 Q. Yes.

24 A. Carlos Figueroa and Roberto Figueroa's mother.

10:11:10AM 25 Q. All right. In Government's 565 do you see a blue sign at

1 the bottom of that photograph?

2 A. Yes, sir.

3 Q. Can you tell us what it says?

4 A. Yes, it says ADT Security -- Secured by ADT.

10:11:27AM 5 Q. Can you circle that blue ADT sign for us?

6 A. At the bottom of the photograph.

7 Q. All right. And if we could show you what's in evidence as

8 Government's 99. If you can clear your screen? Do you see

9 the blue sign in front of the door -- I'm sorry, in front of

10:11:53AM 10 the stairs at 60 Malling Drive?

11 A. Yes.

12 Q. And what is on that sign?

13 A. Again it's another sign that says Secured by ADT.

14 Q. All right. And if you could circle that for us?

10:12:15AM 15 Investigator, as the takedown was occurring at these different

16 locations did the monitoring of the wiretap -- the wiretaps on

17 the cell phones in this case, did that continue or did that

18 stop?

19 A. No, it continued.

10:12:30AM 20 Q. And during that time as the takedown is occurring, were

21 additional calls intercepted over the wiretaps?

22 A. Yes, there were calls and texts.

23 Q. Were any calls intercepted from ADT during that time?

24 A. Yes.

10:12:47AM 25 Q. Were there calls and text messages intercepted from ADT

1 over the wiretaps during the time of the takedown?

2 A. Yes.

3 Q. Do you recall, were they over one line or were they  
4 intercepted over multiple lines?

10:13:06AM 5 A. Multiple lines.

6 Q. Do you recall specifically which lines?

7 A. Yes. 685-4661 and 766-8057.

8 Q. And those lines are reflected in Government's Exhibit 10;  
9 is that right?

10:13:30AM 10 A. Yes.

11 Q. And the first one is the very first number in red that you  
12 mentioned?

13 A. Yes.

14 Q. Are where the user is blacked out?

10:13:39AM 15 A. Correct.

16 Q. And the second one is the first purple number; is that  
17 correct?

18 A. Yes.

19 Q. And the user of that phone was Leitscha Poncedeleon?

10:13:47AM 20 A. Yes.

21 Q. All right.

22 **MR. MARANGOLA:** Judge, I'm going to ask the  
23 investigator at this time to start looking through some tabs  
24 on the wiretap binder. I don't know if the Court wishes to  
10:14:02AM 25 keep going or at this point take a break.

1                   **THE COURT:** How long are you going to be with that?

2                   **MR. MARANGOLA:** We're going to have him look through  
3 some tabs and then play calls, so it's going to be a few  
4 minutes.

10:14:13AM 5                   **THE COURT:** Okay. All right, might be a good time  
6 for a break then. Ladies and gentlemen, at this time we'll  
7 take a recess approximately 20 minutes. In the meantime I'd  
8 ask you not discuss the matter or allow anybody to discuss the  
9 matter with you. Jury may step down we'll stand in recess.

10:42:54AM 10                   (**WHEREUPON**, there was a pause in the proceeding.).

11                   (**WHEREUPON**, the defendant is present).

12                   **THE COURT:** Bring the jury out.

13                   (**WHEREUPON**, the jury is present).

14                   **THE COURT:** You may continue.

10:47:55AM 15                   **MR. MARANGOLA:** Thank you, Your Honor.

16 **BY MR. MARANGOLA:**

17 Q. Investigator Briganti, did you mention to me on one of the  
18 breaks last week in your testimony at the end of the week that  
19 you believe there was a mistake on Government's Exhibit 12,  
10:48:16AM 20 the wiretap cell phone chart there?

21 A. Yes.

22 Q. All right. And can you tell us what you noticed about two  
23 of the dates on the chart? And if you want to circle the ones  
24 on the screen there so we can see what you're talking about  
10:48:33AM 25 and let us know what you had observed that was not accurate.



1 A. Yes. Under start date the second line down, this is  
2 incorrect. And the second line from the bottom also under  
3 start date.

4 Q. All right. With respect to the start date for the number  
10:49:02AM 5 662-8156, the top circle there, what should the start date, in  
6 fact, be instead of January 14, 2018?

7 A. 1/13.

8 Q. January 13th?

9 A. Yes, 2018.

10:49:14AM 10 Q. And then for the start date next to the 485-9741, what  
11 should the start date for the wiretap for that line be instead  
12 of January 7th?

13 A. January 6th, 2018.

14 Q. All right. And at this time I'd ask you to take out the  
10:49:39AM 15 hardcover -- I'm sorry, the hard copy of Government's  
16 Exhibit 12 and if you could make those two changes and put  
17 your initials next to them?

18 A. So I used the pen to cross out the 14 under start date on  
19 the second line and I put a 13 underneath that, and I put my  
10:50:19AM 20 initials next to that. The fifth line down I put -- crossed  
21 out the 7 and put a 6 and again put my initials next to that.

22 **MR. MARANGOLA:** If I could, Your Honor, take the  
23 hard copy of Government's Exhibit 12 from the investigator and  
24 show the jury what changes he made?

10:50:47AM 25 **THE COURT:** Yes, you may.

1                   **MR. MARANGOLA:** Thank you. I'm going to show  
2 counsel, Judge.

3 **BY MR. MARANGOLA:**

4 Q. And you made those two changes as you described on  
10:51:43AM 5 Exhibit 12?

6 A. Yes.

7 Q. Thank you. If we could now -- if we could show you  
8 Government's Exhibit 11. This was the frequency chart that  
9 you testified about earlier. Do you recall that?

10:52:00AM 10 A. Yes.

11 Q. Now, I noticed in the middle column the last three lines  
12 that start with January 13th, do you see that?

13 A. Yes.

14 Q. Those columns indicate zero contacts between the 766-8057  
10:52:22AM 15 number and then the last four numbers actually on the left  
16 column; is that correct?

17 A. Yes.

18 Q. Now, staying with just the last three where the time  
19 period is January 13th to January 29th. Do you see that?

10:52:37AM 20 A. Yes.

21 Q. For the 766-8057 wiretap I think we just saw from the  
22 prior chart -- well, maybe we can ask Ms. Rand to display that  
23 for us one more time?

24                   **THE CLERK:** What am I doing?

10:52:54AM 25                   **MR. MARANGOLA:** The ELMO.

1 **BY MR. MARANGOLA:**

2 Q. The start date for the 766-8057 wiretap line is what?

3 A. January 10th, 2018.

4 Q. All right. And if we could go back to the monitor, the  
10:53:13AM 5 computer?

6 A. Now you can see the time period for the 766-8057 number  
7 and these last four numbers on the left side of the page. Do  
8 you see that?

9 A. Yes.

10:53:27AM 10 Q. Can you explain first regarding the January 13 dates, were  
11 there calls between the 766-8057 number and any of those three  
12 bottom numbers on the left between January 10th and January  
13 13th?

14 A. No, there were not.

10:53:51AM 15 Q. Okay. And then if we can go back to the ELMO one more  
16 time, please? Thank you. 485-9741 number. Do you see that?

17 A. Yes.

18 Q. It starts a start date of January 6 now after you changed  
19 it?

10:54:18AM 20 A. Yes.

21 Q. That was a line used by Roberto Figueroa?

22 A. Yes.

23 Q. And finally the last switch.

24 **THE CLERK:** Thank you.

10:54:25AM 25 **BY MR. MARANGOLA:**

1 Q. That's reflected as the start -- the time period for that  
2 line is -- starts at January 6th as reflected in the third box  
3 underneath the time period column; is that right?

4 A. Yes.

10:54:40AM 5 Q. Now, that's because you started the wiretap on the 9741  
6 Roberto Figueroa line before the 766-8057 line?

7 A. Yes, that's correct.

8 Q. Okay. Thank you for bringing that mistake on our part on  
9 the chart to my attention.

10:55:06AM 10 Now, if we can go back to the time of the takedown  
11 that we were discussing at the break on January 29th, 2018, I  
12 believe you testified that around the time of the takedown at  
13 11:32 or so there were calls that were intercepted from ADT  
14 and texts intercepted from ADT over the wiretap; is that  
10:55:31AM 15 right?

16 A. Yes.

17 Q. Can I ask you to get the wiretap binder there,  
18 Government's Exhibit 1, and flip to almost the end. Tabs  
19 1-188 and 1-189.

10:56:16AM 20 **MR. MARANGOLA:** At this time, Your Honor, I would  
21 offer both Exhibits 1-188 and 1-189.

22 **MR. VACCA:** I would object, Your Honor, on the  
23 grounds of foundation. I don't think they've had a sufficient  
24 foundation for them to show any relevancy of these two  
10:56:36AM 25 entries.

1                   **THE COURT:** I think previously testified regarding  
2 the foundation of these particular entries which do not  
3 contain any conversations, therefore, 1-188-784 and 1-189-1955  
4 will be received.

10:56:58AM 5                   (**WHEREUPON**, Government's Exhibits 1-188-784 and  
6 1-189-1955 were received into evidence.

7                   **MR. MARANGOLA:** Your Honor, may the jury be  
8 permitted to open their binders and flip to those tabs?

9                   **THE COURT:** Yes, it will be 1-188-784 and then  
10:57:13AM 10 1-189-1955.

11                   **THE JUROR:** I didn't hear you.

12                   **THE COURT:** The numbers are 1-188-784 and the second  
13 one is 1-189-1955. Thank you.

14 **BY MR. MARANGOLA:**

10:57:49AM 15 Q. Investigator, do you have those two exhibits in front of  
16 you?

17 A. Yes, I do.

18 Q. And can you tell the jury the date and time -- first of  
19 all, were those calls intercepted over the wire from ADT --

10:58:04AM 20 I'm sorry, those text messages?

21 A. Yes, they were.

22 Q. All right. And what's the time -- what's the date and  
23 time listed for both of the text messages at 1-188 and 1-189?

24 A. January 29th, 2018, 188 is 11:33 a.m. and 20 seconds. And  
10:58:35AM 25 189 is January 29th, 2018, again at 11:33 a.m. and 20 seconds.

1 Q. So the exact same date and time for both of those text  
2 messages?

3 A. Yes.

4 Q. And that's approximately the -- within a minute or so of  
10:58:56AM 5 the time of the entry team made entry at 292 Barrington  
6 Street?

7 A. Yes.

8 Q. How about the direction of these two text messages?

9 A. They're both incoming texts.

10:59:15AM 10 Q. And what about the number -- the phone number that sent  
11 these incoming texts over the wiretap?

12 A. Well, the number that sent the text is 65895 for both.

13 Q. All right. So for each of these texts the date, the time,  
14 the direction and the number that sent the text is identical?

10:59:46AM 15 A. Yes.

16 Q. Were these two text messages intercepted over the same  
17 line?

18 A. No.

19 Q. What line was each of these text messages intercepted  
11:00:00AM 20 over?

21 A. Exhibit 1-188-784 was intercepted over target telephone  
22 number 585-766-8057. And Exhibit 1-189-1955 was intercepted  
23 over target telephone number 585-685-4661.

24 Q. And are both of those lines shown here on Government's  
11:00:44AM 25 Exhibit 10?

1 A. Yes.

2 Q. The target telephone number intercepted the text message  
3 from -- behind 1-188 is listed at the top of Government's  
4 Exhibit 10; is that correct?

11:01:00AM 5 A. Yes.

6 Q. And then the target telephone number that lists -- that  
7 received the incoming text message at -- behind tab 1-189 is  
8 the first purple phone number next to Leitscha Poncedeleon; is  
9 that right?

11:01:15AM 10 A. Yes.

11 Q. Can you read -- I'm sorry. Before I ask you to read, can  
12 you tell us the content of these two text messages? Is it the  
13 same or different?

14 **MR. VACCA:** Objection, Your Honor. They're in  
11:01:29AM 15 evidence, they speak for themselves.

16 **THE COURT:** Overruled. You can answer that  
17 question.

18 **THE WITNESS:** They're the same.

19 **BY MR. MARANGOLA:**

11:01:43AM 20 Q. Can you read the content of the identical text messages  
21 sent to the 766-8057 line and the 685-4661 line reflected in  
22 tabs 1-188 and 1-189?

23 **MR. VACCA:** Objection, Your Honor. I mean, the jury  
24 has this right in front of them. I don't see the necessity of  
11:02:06AM 25 him testifying to that.

1                   **THE COURT:** Okay, thank you. Overruled. Go ahead.

2                   **THE WITNESS:** ADT Pulse alert. Leitscha Poncedeleon  
3 home. 1/29 11:33 a.m. burglary alarm. Proceed with caution.  
4 Sensors FRO...

11:02:32AM 5   **BY MR. MARANGOLA:**

6   Q. All right. Those were text messages intercepted from ADT.  
7 There were also calls intercepted from ADT at the time of the  
8 takedown?

9   A. Yes.

11:02:48AM 10   Q. I'd ask you can you look at tabs 1-190 through 1-192.  
11 Were each of those three calls incoming calls that were  
12 intercepted over the wire?

13   A. Yes.

14   Q. On January 29th, 2018?

11:03:41AM 15   A. Yes.

16   Q. And were they from the same 800 number?

17   A. Yes.

18   Q. All right. And then I'd like you to flip to tab 1-192.

19   A. I'm sorry, 1-192?

11:04:15AM 20   Q. Yes. Now, Investigator, have you reviewed the call that  
21 corresponds to the transcript set forth at 1-192?

22   A. Yes, I have.

23   Q. And before we get to the call tell us what the date and  
24 time of this call is.

11:04:36AM 25   A. January 29th, 2018 at 11:44 a.m. and one second.



1 Q. Now, at that time is the takedown of this investigation  
2 still ongoing?

3 A. Yes.

4 Q. And Government's 1-192 is an incoming call; is that  
11:04:59AM 5 correct?

6 A. Yes.

7 Q. Now, you reviewed the transcript and listened to the call  
8 that corresponds to that transcript?

9 A. Yes.

11:05:06AM 10 Q. Is that right?

11 A. Yes.

12 Q. Does the transcript accurately set forth the contents of  
13 the call?

14 A. Yes.

11:05:13AM 15 Q. In other words, what's actually being spoken by  
16 individuals during the call?

17 A. Yes.

18 Q. Is the call, first of all, in English or Spanish?

19 A. English.

11:05:25AM 20 Q. During the call can you tell the jury how many separate  
21 speakers spoke during the call?

22 A. Three.

23 Q. How -- do the speakers identify themselves in the call?

24 A. Yes.

11:05:38AM 25 Q. How many?

1 A. Two.

2 Q. Who are the speakers that identified themselves in the  
3 call?

4 **MR. VACCA:** Objection, Your Honor, no foundation.

11:05:48AM 5 **THE COURT:** Overruled.

6 **THE WITNESS:** The representative from ADT and Carlos  
7 Figueroa.

8 **BY MR. MARANGOLA:**

9 Q. Now, had you heard the voices of any of the individuals in  
11:06:05AM 10 this call in the course of your investigation?

11 A. Yes.

12 Q. Who have you heard in this call in the course of your  
13 investigation?

14 **MR. VACCA:** Objection, Your Honor.

11:06:18AM 15 **THE COURT:** Overruled.

16 **THE WITNESS:** Carlos Figueroa and Nisharya  
17 Gutierrez.

18 **BY MR. MARANGOLA:**

19 Q. And starting with Carlos Figueroa, approximately how many  
11:06:27AM 20 times have you heard -- had you heard the -- let me ask you  
21 this: Did you hear the voice of the person who identified  
22 themselves in this call as Carlos Figueroa?

23 A. Yes.

24 Q. And at the time you heard that voice that identified  
11:06:44AM 25 himself as Carlos Figueroa, was that -- when was that in

1 relation to the wiretap investigation?

2 A. I'm sorry, I don't understand your question.

3 Q. Let me ask this: You heard the person identify themselves  
4 as Carlos Figueroa in this call?

11:07:04AM 5 A. Yes.

6 Q. Had you heard that person's voice who identified  
7 themselves as Carlos Figueroa in this call prior to hearing  
8 the call?

9 A. Yes.

11:07:12AM 10 **MR. VACCA:** Objection, Your Honor.

11 **THE COURT:** Overruled. Go ahead.

12 **MR. VACCA:** There's no foundation that the voice  
13 that he heard prior to this was Carlos Figueroa.

14 **THE COURT:** He asked if he had heard this voice  
11:07:24AM 15 prior. So overruled. Go ahead.

16 **BY MR. MARANGOLA:**

17 Q. Can you tell us how many times you had heard that voice  
18 prior to listening to the recording and listening to the voice  
19 of the person stating he was Carlos Figueroa?

11:07:37AM 20 **MR. VACCA:** Objection, Your Honor.

21 **THE COURT:** Overruled.

22 **THE WITNESS:** Hundreds of times.

23 **BY MR. MARANGOLA:**

24 Q. When had you heard it hundreds of times?

11:07:44AM 25 **MR. VACCA:** Objection.

1                   **THE COURT:** Overruled. Go ahead.

2                   **THE WITNESS:** Over the course of the wiretap.

3 **BY MR. MARANGOLA:**

4 Q. All right. And was that years earlier or was that close in  
11:07:53AM 5 time to the time you heard this call here marked Government's  
6 1-192?

7 A. It was just -- just prior to this telephone call.

8 Q. How many weeks had you been listening to phone calls where  
9 the same voice that identified himself as Carlos Figueroa in  
11:08:10AM 10 this call spoke on those other calls?

11                   **MR. VACCA:** Objection.

12                   **THE COURT:** Overruled.

13                   **THE WITNESS:** At least three weeks.

14 **BY MR. MARANGOLA:**

11:08:18AM 15 Q. All right. And I believe you indicated it was hundreds of  
16 calls?

17 A. Yes.

18                   **MR. VACCA:** Objection, Your Honor, leading again.

19                   **THE COURT:** Overruled. Answer will stand.

11:08:24AM 20 **BY MR. MARANGOLA:**

21 Q. At any point, Investigator, did you ever speak to the  
22 defendant in court who you previously identified as Carlos  
23 Figueroa? Did you ever speak to him in person?

24 A. Yes.

11:08:35AM 25 Q. Can you tell the jury when you spoke to him in person?

1 A. On the date of his arrest.

2 Q. Did he make any statements to you in person on the date of  
3 his arrest?

4 **MR. VACCA:** Objection, Your Honor.

11:08:46AM 5 **THE COURT:** Overruled about the substance of the  
6 statements.

7 **THE WITNESS:** Yes, he did.

8 **BY MR. MARANGOLA:**

9 Q. At the time he made those statements -- the defendant, who  
11:08:55AM 10 is sitting in court here today, at the time he made those  
11 statements to you in person, did you recognize that voice?

12 **MR. VACCA:** Objection, Your Honor.

13 **THE COURT:** Overruled.

14 **THE WITNESS:** Yes, I did.

11:09:04AM 15 **BY MR. MARANGOLA:**

16 Q. Was it the same or different voice than introduced himself  
17 as Carlos Figueroa in the call behind tab 1-192?

18 **MR. VACCA:** Objection, Your Honor, no foundation.

19 **THE COURT:** Overruled.

11:09:17AM 20 **THE WITNESS:** It was the same voice.

21 **BY MR. MARANGOLA:**

22 Q. Was it the same or different voice that you had heard in  
23 the hundreds of calls while listening to the wiretap in the  
24 weeks leading up to the date that you spoke to the defendant  
11:09:28AM 25 in person?

1                   **MR. VACCA:** Objection, Your Honor.

2                   **THE COURT:** Overruled.

3                   **THE WITNESS:** It was the same voice.

4                   **BY MR. MARANGOLA:**

11:09:33AM 5       Q.     All right. Now, let's talk with respect to Nisharya  
6       Gutierrez. Did you have occasion to listen to wiretap calls  
7       in which Nisharya Gutierrez was a participant during the  
8       course of the investigation?

9       A.     Yes.

11:09:50AM 10     Q.     Approximately how many calls did you listen to in which  
11     Nisharya Gutierrez was a participant?

12     A.     I would say dozens of calls.

13     Q.     Did there come a time that you spoke to Ms. Gutierrez in  
14     person?

11:10:06AM 15     A.     Yes.

16     Q.     And when was that?

17     A.     It was on again the date of the takedown and then days  
18     following the takedown.

19     Q.     And did Ms. Gutierrez make statements to you on those  
11:10:17AM 20     occasions?

21     A.     Yes.

22     Q.     While she was in person in front of you?

23     A.     Yes.

24     Q.     And did the person who spoke to you in person who you knew  
11:10:29AM 25     was Nisharya Gutierrez sound the same or different than the

1 person you intercepted over the wiretap who was Nisharya  
2 Gutierrez?

3 A. Sounded the same.

4 Q. All right. Now, with respect to the transcript at  
11:10:42AM 5 Government's 1-192, you indicated that the content of the  
6 transcript accurately reflects the contents of the call; is  
7 that right?

8 A. Yes.

9 Q. And based on your testimony here and your familiarity with  
11:10:55AM 10 the voices of the defendant as well as Nisharya Gutierrez, are  
11 the participants accurately identified in the call at tab  
12 1-192?

13 **MR. VACCA:** Objection.

14 **THE COURT:** Overruled.

11:11:06AM 15 **THE WITNESS:** Yes.

16 **BY MR. MARANGOLA:**

17 Q. And are the voices -- well, are the initials for Carlos  
18 Javier Figueroa -- let me withdraw that.

19 What are the initials next to the voice of the  
11:11:23AM 20 defendant as set forth in this transcript?

21 A. CF.

22 Q. And what are the initials for Nisharya Gutierrez in this  
23 transcript?

24 A. NG.

11:11:33AM 25 Q. And each of the entries next to CF and NG accurately

1 reflect words spoken by either Carlos Figueroa or Nisharya  
2 Gutierrez?

3 A. Yes.

4 **MR. VACCA:** Objection, Your Honor, leading.

11:11:46AM 5 **THE COURT:** Overruled.

6 **BY MR. MARANGOLA:**

7 Q. I'm sorry, I didn't hear your answer.

8 A. Yes.

9 **MR. MARANGOLA:** At this time, Your Honor, I'd offer  
11:11:54AM 10 Government's 1-192 and ask that we be permitted to play that  
11 for the jury.

12 **MR. VACCA:** I'd object to that, Your Honor,  
13 strenuously. There's been no foundation. It involves a coded  
14 conversation as well as it's voice identification which has  
11:12:09AM 15 not been established in this matter and I would ask the Court  
16 to strike the testimony of the investigator relating to that.

17 **THE COURT:** Thank you. Objection is overruled.  
18 1-192-788 will be received.

19 (**WHEREUPON**, Government's Exhibit 1-192-788 was  
11:12:28AM 20 received in evidence).

21 **THE COURT:** Yes, this call is in English; is that  
22 right?

23 **MR. MARANGOLA:** Yes, Your Honor.

24 **THE COURT:** You're going to hear -- the call is the  
11:12:38AM 25 evidence. The transcript is an aid to assisting your hearing



1 the call, but the call itself is the evidence and you  
2 determine what the actual words are.

3 You may proceed.

4 **MR. MARANGOLA:** Thank you, Your Honor.

11:12:55AM 5 **BY MR. MARANGOLA:**

6 Q. Investigator Briganti, the phone line that this call was  
7 intercepted over was what number? What was the target  
8 telephone?

9 A. 585-766-8057.

11:13:48AM 10 Q. And who was the person that answered this call and said  
11 hello?

12 **MR. VACCA:** Objection, Your Honor.

13 **THE COURT:** Overruled.

14 **THE WITNESS:** Carlos Figueroa.

11:13:56AM 15 **BY MR. MARANGOLA:**

16 Q. And who was the person that identified himself as Carlos  
17 Figueroa on this call?

18 **MR. VACCA:** Objection, Your Honor.

19 **THE COURT:** Overruled.

11:14:05AM 20 **THE WITNESS:** Carlos Figueroa.

21 **BY MR. MARANGOLA:**

22 Q. Can you point to -- do you see the person in court here  
23 today who identified himself as Carlos Figueroa in the call  
24 that we just heard?

11:14:14AM 25 A. Yes.

1 Q. Would you point to him and describe what he's wearing for  
2 the record?

3 A. Yes, he's sitting over there, he has a white dress shirt  
4 on, a tie and a blue mask on.

11:14:24AM 5 **MR. MARANGOLA:** Your Honor, may the record reflect  
6 Investigator Briganti's in-court identification of the  
7 defendant Carlos Javier Figueroa?

8 **THE COURT:** Yes, the record will note the  
9 identification of the defendant Carlos Figueroa.

11:14:35AM 10 **MR. MARANGOLA:** And, Your Honor --

11 **BY MR. MARANGOLA:**

12 Q. -- Investigator Briganti, I'd like to show you what's in  
13 evidence now as Government's 10. Do you see that,  
14 Investigator Briganti?

11:15:03AM 15 A. Yes, I do.

16 Q. And next to the phone number 766-8057, underneath the user  
17 column for that number is blacked out; is that right?

18 A. Yes.

19 Q. And for the record, the call that we just heard this over  
11:15:18AM 20 in which the defendant identified himself on, it is the same  
21 phone number listed in the top of that chart marked  
22 Government's Exhibit 10; is that right?

23 A. Yes.

24 Q. Who was, in fact, the user for that 766-8057 as reflected  
11:15:33AM 25 in this call?

1 A. Carlos Figueroa.

2 **MR. MARANGOLA:** Your Honor, with the Court's  
3 permission I'd like to redact the top box for user next to  
4 766-8057.

11:15:45AM 5 **THE COURT:** You mean unredact?

6 **MR. MARANGOLA:** I'm sorry, yes, unredact.

7 **THE COURT:** Mr. Vacca?

8 **MR. VACCA:** I object, Your Honor.

9 **THE COURT:** Overruled. The top number can be  
11:15:58AM 10 unredacted.

11 **MR. MARANGOLA:** And similarly I'd like to display  
12 Government's Exhibit 12 and ask that the user next to 766-8057  
13 be unredacted based on the testimony in this call.

14 **THE COURT:** Mr. Vacca?

11:16:33AM 15 **MR. VACCA:** I would object to that as well, Your  
16 Honor.

17 **THE COURT:** Okay. Overruled. That can be  
18 unredacted at well.

19 **MR. MARANGOLA:** Thank you, Investigator Briganti.  
11:16:53AM 20 Your Honor, I have no further questions of  
21 Investigator Briganti at this time.

22 **THE COURT:** Thank you.

23 **CROSS-EXAMINATION**

24 **BY MR. VACCA:**

11:17:11AM 25 Q. Investigator, you indicated on your direct testimony on

1 the first day that you testified that you started an  
2 investigation in 2015; is that correct?

3 A. Yes.

4 Q. And there were search warrants issued at that time; is  
11:17:28AM 5 that correct?

6 A. Yes, sir, there were, yes.

7 Q. Okay. Now, when is the first date of activity with respect  
8 to this case?

9 A. The exact date I'm -- I don't recall the exact date that  
11:17:43AM 10 we first started.

11 Q. But it was in 2015, correct?

12 A. Yes.

13 Q. And did you execute -- obtain a search warrant and execute  
14 a search warrant on April 22nd of 2015?

11:18:00AM 15 A. There was a search warrant executed, yes. I wasn't there  
16 at that one, but there was one executed, yes.

17 Q. Okay. But that was the first activity on this case?

18 A. No, there was activity prior to that.

19 Q. Prior to that. And that's 2015, right?

11:18:15AM 20 A. Yes, sir.

21 Q. Okay. And who was in charge of the operation at that  
22 time?

23 **MR. MARANGOLA:** Objection, operation, what he's  
24 referring to.

11:18:26AM 25 **MR. VACCA:** The investigation.

1                   **MR. MARANGOLA:** Thank you.

2                   **THE WITNESS:** At that time it was myself,

3 Investigator Swain, and Special Agent Pat Hoffmann.

4 **BY MR. VACCA:**

11:18:35AM 5 Q.    Okay.   And tell us what happened regarding the search  
6 warrant of April 22nd, 2015.

7 A.    We learned that other investigators had -- had known about  
8 that location and we learned that they had a search warrant  
9 for it after they had obtained the search warrant for it.

11:18:56AM 10 Q.    Okay. Was a search warrant executed there?

11 A.    It was, yes.

12 Q.    And were there any individuals present when that search  
13 warrant was executed?

14 A.    Yes, sir, there was.

11:19:05AM 15 Q.    And who was there?

16 A.    Raphael Rodriguez, also known as Rafi, and Erick Arroyo  
17 Cruz.

18 Q.    Were they arrested?

19 A.    Yes, they were.

11:19:15AM 20 Q.    Were they charged?

21 A.    Yes.

22 Q.    Okay. And as far as that was concerned what, if anything,  
23 did you confiscate from the premises?

24 A.    There were drugs and paperwork.

11:19:29AM 25 Q.    What was the premise address?

1 A. It was 14 Burbank Street.

2 Q. Okay. And as far as 14 Burbank Street is concerned, did  
3 you then have any other activity involving this matter at  
4 Burbank Street, 14 Burbank Street?

11:19:49AM 5 A. Not at 14 Burbank Street.

6 Q. So this was the only activity there was, correct?

7 A. To my recollection, yes.

8 Q. And Carlos was not present at that time of the execution  
9 of the search warrant?

11:20:03AM 10 A. No, sir, he was not.

11 Q. He was not charged with anything, correct?

12 A. No, sir.

13 Q. And as far as the individuals that were involved in this  
14 case, you indicated that they were charged with this, correct?

11:20:17AM 15 A. Yes, sir.

16 Q. All right. So this had nothing to do with Carlos?

17 A. I wouldn't say that, no.

18 Q. But you didn't charge him, right?

19 A. Correct.

11:20:26AM 20 Q. He wasn't there?

21 A. He was not there, yes.

22 Q. Okay. And did you ever speak to him about this incident?

23 A. No, sir.

24 Q. All right. So when is the first time you ever heard  
11:20:39AM 25 Carlos speak?

1 A. The first time I heard him speak was when we began to  
2 wiretap his telephone.

3 Q. You didn't speak to him directly or in person. You did it  
4 through the wiretap?

11:20:51AM 5 A. I spoke to him after the wiretap in person, but never  
6 before it.

7 Q. Never before the wiretap?

8 A. No, sir.

9 Q. Okay. And after the search warrant of April 22nd,  
11:21:06AM 10 2014 (sic), was there a -- what amount of drugs did you  
11 confiscate there?

12 **MR. MARANGOLA:** I'm sorry, what was the question?  
13 Objection, Judge.

14 **THE COURT:** Sustained because I think the date may  
11:21:17AM 15 be wrong. You said April 22nd, 2014.

16 **MR. VACCA:** No, it's 2015.

17 **THE COURT:** Do you want to reask the question,  
18 please?

19 **MR. VACCA:** Sure.

11:21:27AM 20 **BY MR. VACCA:**

21 Q. Sir, when is the next activity that you had involving this  
22 investigation after the April 22nd, 2015 search warrant?

23 A. Well, there was activity throughout. I mean, there was  
24 activity -- some activity every day.

11:21:46AM 25 Q. All right. And what was -- was there a search warrant

1 that was executed on August 12th of 2015?

2 A. Yes, sir, there was.

3 Q. And what address was that at?

4 A. That was at 11 Burbank Street.

11:22:02AM 5 Q. What, if anything, did you confiscate at that time?

6 A. There was over 100 bags of cocaine, over 150 bags of  
7 heroin, there was \$1160 in cash, there was a cell phone, and  
8 some ledgers.

9 Q. All right. And who did you charge -- did you charge  
11:22:24AM 10 anybody with respect to those items?

11 A. Yes, sir.

12 Q. And who did you charge?

13 A. Rinaldo Figueroa and Raphael Rodriguez, also known as  
14 Rafi.

11:22:33AM 15 Q. And they were charged in what? State court?

16 A. Yes, sir.

17 Q. All right. So you confiscated those items from them,  
18 correct?

19 A. Yes.

11:22:40AM 20 Q. And Mr. Figueroa was not there?

21 A. He was not at the time of the search warrant, no.

22 Q. Okay. And he was not charged with anything; is that  
23 correct?

24 A. Correct.

11:22:49AM 25 Q. And did you confiscate these packages of drugs?



1 A. Yes, we did, yes.

2 Q. And was there any money involved?

3 A. Yes.

4 Q. And where did you confiscate the money?

11:23:00AM 5 A. I'm sorry, I didn't hear your question.

6 Q. Where did you confiscate the money?

7 A. At 11 Burbank Street.

8 Q. At 11 Burbank Street?

9 A. Yes.

11:23:09AM 10 Q. Any of these items that you took into your custody during  
11 2015, okay? Did you test any of these items?

12 A. I'm not certain if I field tested them or if another  
13 investigator field tested them.

14 Q. Okay. And did you do any -- anything like DNA testing on  
11:23:33AM 15 the duffle bag or DNA testing on any of the drug packaging?

16 A. No, sir.

17 Q. Okay. So you never did that with respect to those two  
18 cases, right?

19 A. Correct.

11:23:42AM 20 Q. Then you also testified that there was activity going on  
21 in this neighborhood and you applied for a pole camera in  
22 2016, correct?

23 A. Well, we didn't apply for it. We just installed it.

24 Q. You just installed it?

11:23:58AM 25 A. Yes.

1 Q. Okay. So when did you install that, do you remember?

2 A. Some time around April of 2016.

3 Q. All right. And you indicated that there was some activity  
4 on that street of Luis -- was it Luis Gargol --

11:24:16AM 5 A. It was -- it was Caesar Quinones, also known as Gargola.

6 Q. Okay. And he was murdered?

7 A. He was murdered, sir, yes.

8 Q. He was murdered and that served as one of the bases as to  
9 why you wanted a pole camera installed?

11:24:32AM 10 A. That was one of the bases, yes.

11 Q. Okay. But was anybody charged with respect to that?

12 A. To his murder?

13 Q. Yes.

14 A. No.

11:24:42AM 15 Q. Okay. So no one was charged with respect to that murder?

16 A. Correct.

17 Q. And it was near North Clinton Avenue?

18 A. Yes, it was on Burbank Street almost to North Clinton  
19 Avenue.

11:24:53AM 20 Q. Okay. And there's also an Obed Torres, 54 Miller Street,  
21 2016?

22 A. Yes.

23 Q. Why don't you tell me about that?

24 A. Do you want me to tell you the incident?

11:25:04AM 25 Q. Yeah.

1 A. Obed Torres arrived at 54 Miller Street and was shot  
2 through the door as he approached the location by Axel Aponte  
3 Camacho.

4 Q. All right. And no one was charged with that; is that  
11:25:20AM 5 correct?

6 A. Axel Aponte Camacho was charged.

7 Q. He was charged with that, but my client wasn't charged  
8 with it?

9 A. No.

11:25:27AM 10 Q. Okay. All right. Then there was something on Conkey  
11 Avenue, a search warrant on 2/2/17?

12 A. Yes, sir.

13 Q. Tell me about that.

14 A. There was a search warrant that was executed there for  
11:25:38AM 15 narcotics and an individual was arrested during that search  
16 warrant.

17 Q. But not Carlos?

18 A. Correct.

19 Q. And what was found as a result of that search warrant?

11:25:55AM 20 A. I believe it was 67 decks of heroin and 22 bags of  
21 cocaine, there was .22 caliber ammunition, I think \$348 in  
22 cash and some drug ledgers.

23 Q. Okay. And at that period of time -- that point in time had  
24 you started using confidential sources?

11:26:21AM 25 A. Yes.

1 Q. What date did you start using confidential sources with  
2 respect to the investigation of this matter we have here in  
3 court today?

4 A. I would say the beginning of 2015, the exact date I'm not  
11:26:33AM 5 aware of, but it was during the very early months of 2015.

6 Q. Okay. And the arrest took place on what? 1/29/18?

7 A. Yes.

8 Q. 1/29/18, so three years -- this was an ongoing  
9 investigation for three years?

11:26:48AM 10 A. Yes, sir.

11 Q. All right. And how many agents or officers or inspectors  
12 or investigators did you have appointed or working with your  
13 team at that time?

14 A. Throughout the investigation, I would say at least 40.

11:27:10AM 15 Q. Okay. And there was not a takedown until you were into  
16 this for approximately three years?

17 A. That's correct.

18 Q. Okay. And is it true that you could have made some arrests  
19 with respect to this matter much earlier than that, but you  
11:27:28AM 20 chose not to so that you could use confidential sources or  
21 unindicted co-conspirators or indicted co-conspirators?

22 A. I'm not sure I understand.

23 Q. Well, what I'm basically asking you is you could have  
24 started the investigation or the arrest or whatever with  
11:27:52AM 25 respect to this matter much earlier than January of 2018?

1 A. Well, there were individuals that were arrested during the  
2 course of the investigation.

3 Q. When did my client first become a suspect in this matter?

4 A. Suspect in the matter, again, once the investigation  
11:28:10AM 5 started. When it originally started.

6 Q. So in 2015?

7 A. Yes.

8 Q. Okay. And you knew -- you knew through your confidential  
9 sources and other individuals that there were weapons and  
11:28:24AM 10 drugs, et cetera, involved in this matter?

11 A. We believed that there were. We didn't know that. I  
12 mean, we didn't -- we didn't just rely on the information from  
13 the informant. We needed to investigate further.

14 Q. Okay. And you just testified about the search warrant at  
11:28:41AM 15 Conkey Avenue; is that correct?

16 A. Yes, sir.

17 Q. All right. When did you first start wiretapping my  
18 client's phone?

19 A. The exact date I'm not certain, but it was in January of  
11:28:59AM 20 2018.

21 Q. January 2018?

22 A. Yes, sir.

23 Q. So that was right around the takedown?

24 A. It was -- it was weeks before it, yes.

11:29:10AM 25 Q. Okay. And how many phones did you tap?

1 A. Of Mr. Figueroa's or total?

2 Q. Total.

3 A. I believe there were seven cell phones. Seven phones.

4 Q. Seven phones?

11:29:40AM 5 A. Yes.

6 Q. Okay. And whose cell phone was tapped for the longest  
7 period of time?

8 A. Roberto Figueroa.

9 Q. Roberto Figueroa?

11:29:55AM 10 A. Yes, sir.

11 Q. Okay. Now, he resided at 292 Barrington Street, correct?

12 A. Yes, he did.

13 Q. Who did he reside there with?

14 A. He resided there with his girlfriend, their child and

11:30:08AM 15 Leitscha Poncedeleon.

16 Q. Okay. All right. There was a search warrant executed there  
17 on the 29th day of January 2018; is that correct?

18 A. Yes, sir.

19 Q. Those are -- those various items that were shown in the

11:30:26AM 20 exhibits, for example, you know, Home Depot bucket with some

21 white substance in there, what looked like some weapons, that

22 type of thing, were they there when they executed the search  
23 warrant?

24 A. Yes, they were.

11:30:41AM 25 Q. And was Carlos Figueroa there when you executed the search

1 warrant?

2 A. Not on the date of the search warrant, no, sir.

3 Q. He was not there?

4 A. No.

11:30:48AM 5 Q. Where was he, do you know?

6 A. Yes, he was at 6 Burbank Street.

7 Q. Okay. And as far as 6 Burbank Street is concerned, who  
8 resided there?

9 A. That was Carlos Figueroa, Nisharya Gutierrez, and their  
11:31:03AM 10 children.

11 Q. Did you execute a search warrant at Fernwood as well?

12 A. No, sir.

13 Q. Okay. They show in the photographs, we see pictures of big  
14 boxes in the car and we also see boxes inside the house. Did  
11:31:20AM 15 you confiscate and take all that into evidence?

16 A. At which location, sir?

17 Q. At Barrington.

18 A. Yes, it was confiscated.

19 Q. It was all confiscated?

11:31:33AM 20 A. Yes, sir.

21 Q. Did you perform any tests on it?

22 A. I didn't, no.

23 Q. Do you know if anybody did?

24 A. I know tests were performed on some of the items that were  
11:31:45AM 25 taken from the location, yes.

1 Q. DNA?

2 A. No.

3 Q. Fingerprints?

4 A. I'm not certain if there was fingerprints, no.

11:31:54AM 5 Q. Did you ever get any fingerprint reports on this matter?

6 A. I can't recall if I reviewed any.

7 Q. Okay.

8 A. If I did there was no indication that there were any.

9 Q. All right. And then we just saw -- we saw a video of a  
11:32:12AM 10 couple of individuals running in the parking lot on Culver  
11 Road. Okay, what's that all about?

12 A. So you want me to explain to you why?

13 Q. Yeah.

14 A. Okay, okay. So those two individuals were believed to  
11:32:31AM 15 have entered an apartment at that residence -- at that  
16 building and taken a quantity of drugs from the building and a  
17 firearm and then fled the area.

18 Q. Okay. And who did you get that information from that they  
19 did this?

11:32:49AM 20 A. The individual that did it.

21 Q. Who was that individual?

22 A. Axel Aponte Camacho.

23 Q. That's the one you mentioned before as well?

24 A. Yes, at 54 Miller Street, yes.

11:33:00AM 25 Q. At 54 Miller Street?



1 A. Yes.

2 Q. And 820 East Main Street, okay? How is it that 820 East  
3 Main Street plays into this?

4 A. I don't understand, sir.

11:33:15AM 5 Q. Okay. 820 East Main Street, why is it in this case? Why  
6 are we talking about it?

7 A. It was a location where we believed during the  
8 investigation the drugs were being packaged for street level  
9 distribution. So packaged into smaller packages and then  
11:33:34AM 10 taken to drug houses or to individuals who were selling on the  
11 street.

12 Q. Did you -- did you execute a search warrant at that  
13 address?

14 A. Yes, there was a search warrant executed there.

11:33:45AM 15 Q. Okay. What items did you obtain?

16 A. Packaging materials, I'm not certain of the other items --  
17 oh, there was cell phones and packaging materials that were  
18 taken from that location.

19 Q. Okay. Who was arrested when that search warrant was  
11:34:01AM 20 executed at that address?

21 A. I don't believe there was anybody inside the residence  
22 when the officers entered.

23 Q. So no one was charged that was at 820 East Main Street?

24 A. No, there was nobody in 820 East Main Street.

11:34:17AM 25 Q. How about 59 Fernwood? Was a search warrant executed

1 there?

2 A. No, sir.

3 Q. And Leo Street, was there any type of search warrant  
4 executed at Leo Street?

11:34:33AM 5 A. No.

6 Q. Ritz Street?

7 A. No, sir.

8 Q. How about Rosedale Street?

9 A. No.

11:34:36AM 10 Q. How about St. Paul Street? Front 360?

11 A. No.

12 Q. 360 St. Paul back?

13 A. No.

14 Q. Lincoln apartments?

11:34:48AM 15 A. No.

16 Q. 280 Garson Avenue?

17 A. No.

18 Q. 604 Garson Avenue?

19 A. No.

11:34:54AM 20 Q. 699 East Main Street?

21 A. No.

22 Q. 899 Culver Road -- well, we already did that. Let's do it  
23 again. 899 Culver Road front?

24 A. No.

11:35:06AM 25 Q. How about back?

1 A. No, sir.

2 Q. 157 Depew Street?

3 A. No.

4 Q. 60 Malling Drive?

11:35:13AM 5 A. There was a search warrant conducted at Malling Drive.

6 Q. That's where my client's mother lives; is that correct?

7 A. Yes.

8 Q. And did you obtain anything from that?

9 A. Yes.

11:35:21AM 10 Q. What did you get?

11 A. There was approximately \$400,000 in cash.

12 Q. Okay. And the mother lived there, though, correct?

13 A. Yes.

14 Q. 2519 Brighton Henrietta Townline Road?

11:35:36AM 15 A. There was a search warrant conducted there, yes.

16 Q. Was anything obtained, do you know?

17 A. Yes. There was cocaine and a firearm that were  
18 confiscated from that location.

19 Q. Were any individuals arrested?

11:35:49AM 20 A. Yes.

21 Q. Okay. Who was arrested there?

22 A. Well, not there but in relation to that Orlando Yelder  
23 resided at that residence. He wasn't there at the time of the  
24 search warrant.

11:36:00AM 25 Q. Okay. All right.

1 A. He was arrested in this case.

2 Q. He's in the parking lot in the red Mustang, right?

3 A. That is correct, sir.

4 Q. How about 150 Van Aucker?

11:36:12AM 5 A. There was not a search warrant executed at that location.

6 Q. William Warfield apartments?

7 A. No, sir.

8 Q. That's where they found the car, correct?

9 A. Yes.

11:36:21AM 10 Q. 736 Carter Street?

11 A. No, sir.

12 Q. How about 736 -- excuse me, how about Felix's barber shop,  
13 1164 North Clinton Avenue?

14 A. Correct, there was not a search warrant there.

11:36:36AM 15 Q. Westgate post office?

16 A. No.

17 Q. All right. So now, Investigator, with respect to the  
18 intercepts or the wiretaps, tell us how you set that up.

19 A. I'm not certain I understand, sir.

11:36:55AM 20 Q. Tell me how you, you know, tapped the phones, how you  
21 tapped the phones and how someone monitored it -- monitored  
22 the tapping of the phones.

23 A. Okay. So once we received authorization to wiretap the  
24 phones, that authorization was sent to whatever telephone  
11:37:13AM 25 company it was and then that telephone company will receive

1 the order and then give us -- the data starts to come through  
2 the system along with the call content.

3 So a mon -- there are monitors in the room and what  
4 the monitors do is when a call comes up on the screen it  
11:37:35AM 5 will -- and they're logged in, like a little bell will go off  
6 and it will highlight the telephone number that's coming  
7 through the system.

8 And then oftentimes a certain monitor is assigned  
9 to a certain phone or certain phones. So what will happen is  
11:37:54AM 10 they will click onto that line, begin to listen to it; if  
11 they're already listening to another line they will request  
12 another monitor log on, click into that and listen to it.

13 Q. Okay. Now, regarding wiretaps would you agree with me that  
14 one of your purposes is to find coded conversations and  
11:38:19AM 15 interpret coded conversations regarding, you know, anybody's  
16 statement with another individual?

17 A. I believe that's part of it, yes.

18 Q. Okay. Voice identification, right? And coded -- coded  
19 conversations?

11:38:35AM 20 A. Yes, that's one of the reasons why we listen, yes.

21 Q. What training or experience do you have with conversations  
22 involving coded conversations?

23 A. Only the previous wiretaps or phones that I've listened to  
24 during the course of my career and attempting to understand  
11:38:59AM 25 what is being said based on not only the conversation, but

1 what follows that and the investigation itself. So attempting  
2 to determine what those coded conversations mean.

3 Q. Do you receive any special training in how to decipher  
4 coded conversation?

11:39:23AM 5 A. No, sir.

6 Q. So there's no training or experience regarding that?

7 A. No, sir.

8 Q. Would you say that wiretaps are an important part of  
9 investigations into narcotics activity?

11:39:38AM 10 A. In some cases they are. Not all, but some cases do. I  
11 mean, they do uncover a lot as far as the investigation goes,  
12 but not in all cases.

13 Q. You do go to training in terms of being an officer or  
14 being an investigator in terms of how to handle a case or how  
11:39:56AM 15 to deal with all of the things involved in a case, correct?

16 A. Yes, sir.

17 Q. All right. And in this type of case, wouldn't you agree  
18 that evidence of conversations involving an alleged coded  
19 conversation was an important part of this case?

11:40:14AM 20 A. Yes, I would agree that the conversations themselves are  
21 important, yes.

22 Q. Okay. And is there ever any testing to see how well  
23 you're doing at deciphering a coded conversation?

24 A. Only -- no, there's no test, no.

11:40:32AM 25 Q. There's no test? How about training?

1 A. No, I think that it's more having done it, just as  
2 experience of having done it. There's no formal training  
3 that's -- that I've ever received.

4 Q. Well, what -- you and Investigator Swain were in charge of  
11:40:53AM 5 the whole program, right?

6 A. And Special Agent Hoffmann, yes.

7 Q. Special Agent Hoffmann, okay. And then you got the  
8 wiretaps, you got the wiretaps. Who listened to the  
9 conversations?

11:41:04AM 10 A. So it was personnel -- law enforcement personnel that were  
11 authorized to listen to them that were part of the  
12 investigation, they were assigned to it.

13 And then there were also interpreters that we --  
14 because some of the conversations were in Spanish and law  
11:41:18AM 15 enforcement officers didn't speak Spanish.

16 Q. All right. So you got -- you got a lot of the  
17 conversations in Spanish. So you go from the conversation in  
18 Spanish, then the interpretation in English, correct?

19 A. Yes.

11:41:29AM 20 Q. The interpretation to English, then you have to identify  
21 the speaker?

22 A. Yes, the -- yes.

23 Q. So this is a three step process?

24 A. It is a three step process.

11:41:44AM 25 Q. Three step process. And what results out of that is this

1 huge book that we have here, okay? That -- I think you have  
2 it up there as well?

3 A. Yes, sir.

4 Q. Right? That has to do with conversations?

11:41:57AM 5 A. Yes.

6 Q. Has to do with wiretaps?

7 A. Yes.

8 Q. Correct?

9 A. Yes.

11:41:59AM 10 Q. And did you help to prepare that book?

11 A. Yes, I did.

12 Q. Okay. Now, in preparing that book -- you don't speak  
13 Spanish, so how do you know that the interpretation or the  
14 translation from Spanish to English is 100% accurate?

11:42:21AM 15 **MR. MARANGOLA:** Objection, Judge, the Investigator  
16 has testified about the interpretation of a single call. The  
17 testimony has been that he authenticated the data for the  
18 calls in there. There's no interpretation.

19 **THE COURT:** Overruled. It's a proper question. He  
11:42:35AM 20 can answer that.

21 **THE WITNESS:** I'm sorry, sir, could you repeat the  
22 question?

23 **MR. VACCA:** Could I --

24 **THE COURT:** How do you know that the interpretation  
11:42:42AM 25 or the translation from Spanish to English is 100% accurate?



1                   **THE WITNESS:** I don't.

2   **BY MR. VACCA:**

3   Q.   Okay. So would it be fair to say that there are errors in  
4   the interpretation from Spanish to English?

11:42:56AM 5   A.   That I'm aware of, I don't know of any -- I don't know of  
6   any. I'm not aware of any.

7   Q.   Well, I'm just standing up here and I'm showing you what  
8   we have, what the jurors have. Are you telling me this  
9   interpretation is 100% accurate?

11:43:15AM 10                   **MR. MARANGOLA:** Objection, Judge, he's confusing  
11   interpretation with --

12                   **THE COURT:** Sustained, that's not what he said.

13   **BY MR. VACCA:**

14   Q.   Okay. So did you help in preparing this book?

11:43:25AM 15   A.   Yes.

16   Q.   You helped. And did you read the entries when you were  
17   preparing that book?

18   A.   I read the data entries. So the data portions at the top  
19   that I put my initials next to --

11:43:37AM 20   Q.   Right.

21   A.   -- those I reviewed, yes.

22   Q.   How about the conversations that follow that?

23   A.   I reviewed them. I reviewed them, yes.

24   Q.   Okay. And had they been interpreted from Spanish to  
11:43:47AM 25   English when you reviewed them?

1 A. Yes. I don't speak Spanish.

2 Q. Do you have any -- do you have any type of test on it  
3 where you have two interpreters look at it to make sure the  
4 interpretation is correct?

11:44:01AM 5 A. I think some of them had multiple people listen to it, but  
6 I can't -- I can't tell you how many people listened to each  
7 one.

8 Q. And when these people listened to this, were you present?

9 A. Yes.

11:44:13AM 10 Q. All the time?

11 A. To my recollection, yes, but there may have been times I  
12 was not.

13 Q. Was there ever any incident where someone spoke to you or  
14 came to you because you're one of the persons in charge and  
11:44:28AM 15 say, you know, I think there's a little something wrong with  
16 this interpretation or I don't understand this, could we have  
17 them take a look at it again?

18 **MR. MARANGOLA:** Objection, Judge, is he talking  
19 about the binder or during the course of the wiretap?

11:44:40AM 20 **MR. VACCA:** During the course of the wiretap, then  
21 I'll go to the binder.

22 **THE COURT:** Overruled. You can answer that.

23 **THE WITNESS:** So during the course of the wiretap I  
24 don't recall anybody telling me that the transcript was  
11:44:58AM 25 incorrect.

1 **BY MR. VACCA:**

2 Q. Okay. But did you pursue opinion as to whether or not it  
3 was correct?

4 A. Only the person that actually prepared the transcript or  
11:45:09AM 5 listened to the call and transcribed it, that it was the only  
6 person I spoke to at the time of the wiretap in regards to  
7 what the content of it was.

8 Q. How many interpreters did you use that were Spanish  
9 interpreters?

11:45:20AM 10 A. There were several. And I don't know the exact number. I  
11 would say at least -- over the course of it, I would say at  
12 least seven or eight, maybe more. But at least that amount.

13 Q. Okay. What date did the -- did the -- was the tap  
14 installed on the phones?

11:45:37AM 15 A. The first date of the wiretap was December 21st of 2017.

16 Q. All right. So the tap was on the phone for about five  
17 weeks?

18 A. Totally, yes.

19 Q. Totally about five weeks. And you said you had hundreds  
11:45:53AM 20 of people working on this?

21 A. Well, there were hundreds of people that were involved in  
22 the entire investigation, that includes the takedown, yes.

23 Q. Did they do rough drafts of the interpretations?

24 A. Well, there are synopses that are put into the system that  
11:46:13AM 25 we would review in English, if that's what your question is,

1 yes.

2 Q. Did you have any Spanish speaking officers as part of your  
3 team?

4 A. Yes.

11:46:23AM 5 Q. Okay. How many?

6 A. I believe there were two.

7 Q. Two?

8 A. Yes.

9 Q. And when they were involved in the takedown did they  
11:46:44AM 10 translate when the takedown took place?

11 A. I don't understand, sir.

12 Q. When the takedown took place?

13 A. Yes.

14 Q. You arrest people, correct?

11:46:54AM 15 A. Yes.

16 Q. You read them their rights?

17 A. Yes.

18 Q. All right. Did you have a Spanish interpreter there to  
19 read them their rights?

11:47:05AM 20 A. I didn't interview, so I didn't need to do that. So I  
21 would say no.

22 Q. All right. So how many people were arrested on takedown  
23 day?

24 A. Let's see, I believe there were nine.

11:47:39AM 25 Q. Nine?

1 A. Nine.

2 Q. Involved in takedown day?

3 A. I believe it was nine, yes.

4 Q. If you take a look at 292 Barrington Street there's like  
11:47:51AM 5 10 or 15 running through the lawn on takedown day.

6 A. I'm sorry?

7 **THE COURT:** The question was how many people were  
8 arrested on takedown day.

9 **BY MR. VACCA:**

10 Q. How many people arrested?  
11:48:05AM

11 A. I believe that got arrested, I believe it was nine.

12 Q. Was there a Spanish interpreter there?

13 **MR. MARANGOLA:** Objection. Where?

14 **THE COURT:** Sustained.

15 **BY MR. VACCA:**  
11:48:18AM

16 Q. Was there a Spanish interpreter at any of the locations  
17 during the takedown?

18 A. Not that I'm aware of.

19 Q. Okay. And you indicated you didn't need an interpreter  
11:48:35AM 20 for takedown?

21 A. Not on entry on the takedown, no. I think if one was  
22 required then we would have called one, we would have asked  
23 for one.

24 Q. So there wasn't a defendant in the takedown who had his or  
11:48:48AM 25 her rights read to him?

1 A. Not at the location, no.

2 Q. Okay. On that day. All right. Now, voice identification,  
3 when did you start working towards identifying voices?

4 A. From the beginning of the wiretap.

11:49:07AM 5 Q. All right. And did you have other individuals listen to  
6 individuals speaking and render an opinion as to who that was?

7 A. Yes.

8 Q. On how many occasions?

9 A. Every day.

11:49:21AM 10 Q. Okay. A lot of those were confidential informants,  
11 correct?

12 A. No. During the wiretap they were law enforcement officers  
13 that were assigned to the investigation, or interpreters.

14 Q. So did you at any point in time have individuals who were  
11:49:36AM 15 co-conspirators -- unindicted co-conspirators, confidential  
16 sources listen to the transcripts or listen to the  
17 conversations or what was coming out as a tap, did you have  
18 them listen to any of your interceptions?

19 A. Yes.

11:49:52AM 20 Q. And was that during this period of time from December of  
21 2017 to January of 2018?

22 A. No, it was after.

23 Q. It was after?

24 A. Yes.

11:50:06AM 25 Q. Like when after?

1 A. I mean, it was -- it was right from after the takedown  
2 until right before we're here in court.

3 Q. Okay. So have you talked to several of these individuals  
4 who identified voices or who made other identifications,  
11:50:35AM 5 content with respect to this matter? Have you talked to them  
6 about it?

7 A. Yes, I've been -- when conversations were -- when we've  
8 had conversations with them, yes.

9 Q. Have you been into the U.S. Attorney's Office with any of  
11:50:48AM 10 the individuals from the U.S. Attorney's Office to talk about  
11 this case?

12 A. Yes.

13 Q. Have you gone over your testimony?

14 A. Yes.

11:50:55AM 15 Q. Have you gone over all the documentation?

16 A. Yes, sir.

17 Q. Have you at any time gone to the U.S. Attorney's Office  
18 and been there with an indicted co-conspirator?

19 A. Yes, sir.

11:51:08AM 20 Q. Unindicted co-conspirator?

21 A. Yes.

22 Q. Okay. Who was the indicted co-conspirator?

23 A. Roberto Figueroa, Orlando Yelder, Jonathan Carmona Cruz,  
24 Axel Aponte Camacho, Victor Nunez. I don't want to miss one,  
11:51:46AM 25 but I can't remember any others, but I believe that's it.

1 Q. How about Bernardino Burgos Morales?

2 A. Yes, okay, Bernardino Burgos Morales.

3 Q. Karina Lopez?

4 A. We did speak with her, yes.

11:52:03AM 5 Q. Iris Carmona Osario?

6 A. Yes, but she was not indicted.

7 Q. Cassandra Dieter?

8 A. No, I was -- no.

9 Q. Angel Reyes Quinones?

11:52:21AM 10 A. No.

11 Q. Amy Aponte Camacho?

12 A. Axel Aponte Camacho, yes.

13 Q. Elston Villanueva?

14 A. No, I don't recall that person.

11:52:40AM 15 Q. Nisharya Gutierrez?

16 A. I was there for that, yes, and she was not indicted.

17 Q. Ingrid Mercado?

18 A. Yes.

19 Q. Jose Olivencia?

11:52:52AM 20 A. Yes.

21 Q. Leitscha Poncedeleon?

22 A. I'm sorry, sir?

23 Q. Leitscha Poncedeleon?

24 A. Leitscha Poncedeleon?

11:53:03AM 25 Q. Right.



1 A. No, I was -- I never interviewed her. She was never  
2 interviewed with us.

3 Q. Noel Figueroa?

4 A. I was not present during that interview.

11:53:14AM 5 Q. Okay. So these are all individuals who were interviewed at  
6 the U.S. Attorney's Office, correct?

7 A. Yes, some were indicted, but not all of those individuals  
8 were indicted.

9 Q. Were some of the individuals not indicted because of a  
11:53:29AM 10 beneficial plea offer that was extended by the U.S. Attorney's  
11 Office?

12 A. Not that I'm aware of, no.

13 Q. Okay. So nobody got a deal?

14 A. I'm not sure what you mean, sir.

11:53:44AM 15 Q. Well, no one was given consideration who spoke to you,  
16 right? Or did they just come in and say, I want to cleanse my  
17 soul and come in and tell you all about this?

18 **MR. MARANGOLA:** Objection, Judge.

19 **THE COURT:** No, overruled. He can answer that if he  
11:53:59AM 20 knows.

21 **THE WITNESS:** No, the ones that were indicted, no.  
22 I believe that there is a plea deal and a cooperation  
23 agreement.

24 **BY MR. VACCA:**

11:54:09AM 25 Q. What's your understanding of a cooperation agreement?

1                   **MR. MARANGOLA:** Objection, Judge.

2                   **THE COURT:** Overruled.

3                   **MR. MARANGOLA:** Witness isn't testifying pursuant to  
4 one.

11:54:17AM 5                   **THE COURT:** He can explain what his understanding of  
6 a cooperation agreement is based upon his experience.  
7 Overruled.

8                   **THE WITNESS:** My understanding of a cooperation  
9 agreement is an individual enters into a cooperation agreement  
11:54:29AM 10 with the Government and agrees to tell the truth, the entire  
11 truth and if -- and provides substantial assistance.

12                   If substantial assistance is provided to the  
13 Government based on their truthful testimony, then the  
14 Government can request to have their sentence reduced, but  
11:54:53AM 15 there's no promise of a reduction of sentence.

16 **BY MR. VACCA:**

17 Q.   There's no promise, but there is -- with every one of  
18 these there's conversation regarding what their sentence will  
19 be if they cooperate?

11:55:07AM 20                   **MR. MARANGOLA:** Objection, Judge.

21                   **THE WITNESS:** No.

22                   **THE COURT:** Sustain the objection.

23                   **MR. VACCA:** Okay.

24                   **THE COURT:** Answer will be stricken.

11:55:17AM 25 **BY MR. VACCA:**

1 Q. Now, do you know what the plea deal was with Orlando  
2 Yelder?

3 A. I do not, sir.

4 Q. How about Roberto Figueroa?

11:55:24AM 5 A. No.

6 Q. Which ones do you know what the deal was?

7 A. I don't know any of them in specifics. I don't know the  
8 specifics behind any of them. I know they all entered into a  
9 cooperation agreement, but I don't know the specifics of it.

11:55:37AM 10 Q. Okay. And you reviewed some of these, not reviewed some of  
11 these. You talked to some of these individuals in the  
12 U.S. Attorney's Office, correct?

13 A. Yes, sir.

14 Q. All right. And did you do any transporting of these  
11:55:50AM 15 individuals to the U.S. Attorney's Office?

16 A. Many times.

17 Q. Okay. By transporting what do you mean?

18 A. Picking them up from whatever jail they're being housed at  
19 or prison, and bringing them to the U.S. Attorney's Office and  
11:56:01AM 20 then returning them back.

21 Q. Okay. And they usually don't get the deal until the case  
22 is over, right?

23 A. That's correct.

24 **MR. MARANGOLA:** Objection, Judge.

11:56:09AM 25 **THE COURT:** Sustained. That will be stricken.

1 **BY MR. VACCA:**

2 Q. Let's talk about the voice identification. Did you bring  
3 individuals in to listen to some of these tapped statements  
4 and identify who was making the statement?

11:56:28AM 5 A. Yes, I believe identifications were made, yes, by  
6 co-conspirators, yes.

7 Q. By co-conspirators?

8 A. Yes, sir.

9 Q. And could you -- could you give me a list of those  
11:56:37AM 10 individuals who came in and identified individuals?

11 A. Again Axel Aponte Camacho, Roberto Figueroa, Orlando  
12 Yelder, Bernardino Burgos, Jonathan Cruz Carmona, Victor  
13 Nunez, Karina Lopez, Ingrid Mercado. These aren't all  
14 indicted, these are individuals that made identifications. I  
11:57:18AM 15 can't recall any others.

16 Q. By identifications you mean from photographic arrays or  
17 from listening to them with a voice identification or both?

18 A. I don't recall all of them with photo identifications, but  
19 I do recall those individuals with voice identifications --  
11:57:43AM 20 not all of the calls, but a portion of some of them.

21 Q. Do you know how many?

22 A. How many?

23 Q. Voice identification?

24 A. I'm not certain. I don't know exactly.

11:57:56AM 25 Q. Were you there when they did it?

1 A. Some of them I was, yes.

2 **MR. VACCA:** If I could just have a moment please,  
3 Your Honor?

4 **THE COURT:** Sure.

11:58:24AM 5 **BY MR. VACCA:**

6 Q. So would it be fair to say that fingerprints and DNA were  
7 really not utilized or used in this takedown?

8 A. DNA I don't believe was. There were incidents of DNA  
9 throughout the investigation. We did collect DNA throughout  
11:58:52AM 10 the investigation at different times during the investigation.

11 Q. Was that more for an identification purpose?

12 A. I'm not certain what your question is, sir.

13 Q. Was it like you didn't know who an individual was or  
14 whatever and you wanted to look at the DNA and see who did it  
11:59:11AM 15 or who it was?

16 A. The items -- some of the items that were recovered in the  
17 case we did ask for DNA analysis on just to determine, you  
18 know, who had the item, who may have touched the item.

19 Q. Is it true to say that you never had any DNA evidence  
11:59:28AM 20 against my client?

21 A. I don't recall any DNA evidence, no.

22 Q. Okay. No fingerprints?

23 A. Not that I can recall, no.

24 Q. Okay.

11:59:45AM 25 **MR. VACCA:** Just one more moment, Your Honor.

1 **BY MR. VACCA:**

2 Q. Investigator, there was a point in time when you indicated  
3 that at Fernwood, 59 Fernwood you were surveilling the  
4 premises there and there was a Postal truck that pulled in  
12:01:03PM 5 front and that Mr. Figueroa was there and that he was carrying  
6 a box; is that accurate?

7 A. Yes.

8 Q. Okay. And isn't it true that you do not know what was in  
9 that box?

12:01:17PM 10 A. I don't know what you mean by know.

11 Q. Did you at that point in time -- is it your allegation  
12 that Mr. Figueroa at that point in time picked up the box from  
13 the premises and brought it over to Fernwood?

14 A. That's what surveillance shows, yes.

12:01:37PM 15 Q. That's what it shows. But you don't -- you didn't know at  
16 that point in time what was in the box?

17 A. I didn't see what was in the box, but we believed what was  
18 in the box.

19 Q. You believed, but you don't know for sure?

12:01:53PM 20 A. I didn't see it, I didn't see the contents of that box.

21 Q. Okay. All right. Very good.

22 **MR. VACCA:** Thank you very much.

23 **THE COURT:** Mr. Marangola?

24 **MR. MARANGOLA:** Thank you, Judge.

12:02:03PM 25 **REDIRECT EXAMINATION**

1 **BY MR. MARANGOLA:**

2 Q. Investigator, Mr. Vacca was just asking you questions  
3 about Fernwood. The pole camera footage we saw was not the  
4 defendant bringing the box to Fernwood, correct?

12:02:16PM 5 A. No.

6 Q. He brought the box out of Fernwood?

7 A. Yes.

8 Q. And then where did -- where was the defendant vehicle seen  
9 after he brought the box out of Fernwood? Where was the next  
10 pole camera that captured the defendant's vehicle that day?

12:02:30PM

11 A. 292 Barrington Street.

12 Q. The same place that you just testified you observed the  
13 guns, the white powder, the packaging material, the \$230,000;  
14 is that right?

12:02:47PM 15 A. Yes, sir.

16 Q. Mr. Vacca asked you if the defendant was present at the  
17 search of 292 Barrington Street. Do you recall that?

18 A. I do.

19 Q. And he was not present there at the time of the search  
20 warrant, correct?

12:03:01PM

21 A. That's correct.

22 Q. Did you ever see the defendant either live or on pole  
23 camera at 292 Barrington Street during the course of your  
24 investigation?

12:03:10PM 25 A. Yes.

1 Q. Can you give the jury an estimate of the number of times  
2 you saw him either enter or exit 292 Barrington Street during  
3 the course of your investigation?

4 A. I would say at least 40 times.

12:03:27PM 5 Q. And the -- Mr. Vacca asked you a number of questions about  
6 interpreting codes. Do you recall those?

7 A. Yes.

8 Q. Have you been asked to interpret one code for this jury?

9 A. No.

12:03:44PM 10 Q. But in the course of your wiretap investigation  
11 experience, do you decipher codes based on your investigation?

12 A. Yes.

13 Q. Tell the jury what are some of the ways that you identify  
14 codes that are being used during the course of a wiretap.

12:04:04PM 15 A. So if there's a code being used maybe for a location that  
16 they're going to meet, surveillance may follow these  
17 individuals in an attempt to determine what that code means if  
18 they're consistently using it.

12:04:18PM 19 Q. Let's talk about that. Was there ever a particular code  
20 that you heard over this wiretap for a location?

21 A. Yes.

22 Q. What was one of the codes for locations you heard over the  
23 wiretap?

24 A. Wendy's.

12:04:28PM 25 Q. All right. When you heard Wendy's, were there members of



1 surveillance that went and followed individuals to see where  
2 they were going after referring to a location as Wendy's?

3 A. Yes.

4 Q. And did they go to a Wendy's restaurant?

12:04:43PM 5 A. No.

6 Q. Where did they go?

7 A. 820 East Main Street.

8 Q. And is there a Wendy's restaurant in the vicinity of 820  
9 East Main Street?

12:04:52PM 10 A. Yes, about 100 yards away on Main Street.

11 Q. And so would that be one of the ways during the course of  
12 your wiretap you would be able to decipher codes that are  
13 being used by co-conspirators?

14 A. Yes.

12:05:09PM 15 Q. And, by the way, in your experience listening to wiretap  
16 conversations, who uses codes?

17 **MR. VACCA:** Objection, Your Honor, too broad.

18 **THE COURT:** Sustained.

19 **BY MR. MARANGOLA:**

12:05:28PM 20 Q. Let me ask it this way: You heard the call we played from  
21 ADT, right?

22 A. Yes.

23 Q. Any codes utilized by the representative from ADT in that  
24 call?

12:05:40PM 25 **MR. VACCA:** Objection, Your Honor.

1                   **THE COURT:** Overruled.

2                   **THE WITNESS:** No, it didn't appear to be, no.

3 **BY MR. MARANGOLA:**

4 Q.    Okay.   Are there other ways that you were able to in the  
12:05:52PM 5 course of an investigation decipher what codes are being used  
6 by individuals talking about criminal activity?

7 A.    Yes.

8 Q.    Can you describe some of those other ways in which you're  
9 able to decipher codes being utilized by individuals  
12:06:09PM 10 attempting to conceal criminal activity?

11 A.    Yes.   There was a telephone conversation where there was  
12 an indication to cousins.

13                   **MR. VACCA:** Objection, Your Honor.   He's using  
14 general terms.

12:06:24PM 15                   **THE COURT:** Overruled.   Go ahead.

16                   **THE WITNESS:** Generally that the cousins had  
17 arrived.   And it was after that conversation where images were  
18 picked up from 59 Fernwood Avenue, so we deciphered cousins  
19 was the packages.

12:06:52PM 20 **BY MR. MARANGOLA:**

21 Q.    All right.   Mr. Vacca asked you about if you had talked to  
22 co-conspirators during the course of this investigation?

23 A.    Yes.

24 Q.    Do you recall that?

12:07:05PM 25 A.    Yes, I do.

1 Q. And did they identify who they were co-conspirators with  
2 in those meetings?

3 A. Yes.

4 Q. And are any of the individuals they identified as  
12:07:17PM 5 co-conspirators in this courtroom right now?

6 A. I'm sorry, I didn't understand the question. I didn't  
7 hear the question.

8 Q. Are any of the individuals that you sat with and  
9 identified others as co-conspirators, are individuals they  
12:07:33PM 10 identified as co-conspirators in the courtroom right now?

11 A. Yes.

12 Q. Can you point to any and describe what they're wearing?

13 A. Yes, sitting at the table over there with the white dress  
14 shirt on and the blue paper mask.

12:07:49PM 15 Q. All right. And Mr. Vacca asked you about sitting down  
16 with individuals and them identifying participants in the  
17 wiretap calls. Do you recall that?

18 A. Yes.

19 Q. Did these individuals identify both their own voice as  
12:08:04PM 20 well as other voices on other calls?

21 A. Yes.

22 Q. And did those voices include the defendant's voice?

23 **MR. VACCA:** Objection, Your Honor.

24 **THE COURT:** Sustained.

12:08:15PM 25 **BY MR. MARANGOLA:**

1 Q. Mr. Vacca asked you if you had gone over I think was the  
2 words he used, gone over your testimony and documentation. Do  
3 you recall those questions?

4 A. Yes.

12:08:27PM 5 Q. And did you ever -- what did you understand him to mean by  
6 that question?

7 A. Did I ever -- I don't know, did I ever kind of know what I  
8 was -- did I ever know what I was testifying to.

9 Q. Did you -- did I tell the questions I was going to ask you  
12:08:50PM 10 before you testified?

11 A. The exact questions, no.

12 Q. Did we review subject areas of what I anticipated asking  
13 you at trial?

14 A. Yes, the general idea, yes.

12:09:01PM 15 Q. Now, did we do that in the presence of other witnesses?

16 A. No.

17 Q. Did we ever discuss questions I would ask you in front of  
18 any cooperating or otherwise witnesses in this case?

19 A. No.

12:09:18PM 20 Q. Did you in the course of meeting with other witnesses ever  
21 tell any of those witnesses what a different witness had said?

22 A. No.

23 **MR. MARANGOLA:** Nothing further. Thank you,  
24 Investigator.

12:09:50PM 25 **THE COURT:** Mr. Vacca?

1                   **MR. VACCA:** Nothing, Your Honor.

2                   **THE COURT:** Thank you, you may step down.

3                   **THE WITNESS:** Thank you, Your Honor.

4                   (WHEREUPON, the witness was excused).

5                                   \*       \*       \*

6                                   **CERTIFICATE OF REPORTER**

7  
8                   In accordance with 28, U.S.C., 753(b), I certify that  
9 these original notes are a true and correct record of  
10 proceedings in the United States District Court for the  
11 Western District of New York before the Honorable Frank P.  
12 Geraci, Jr. on May 3rd, 2021.

13  
14                   S/ Christi A. Macri

15                   Christi A. Macri, FAPR-RMR-CRR-CSR(CA/NY)  
16                   Official Court Reporter  
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